Selected Acts of the 2018 Virginia General Assembly

Compiled by
The Virginia Department of State Police

This volume of Selected Acts contains legislation passed by the 2018 Session of the Virginia General Assembly that is relevant to criminal law and highway safety. Additional copies of this reference guide may be found at the Virginia State Police website at: http://www.vsp.state.va.us/FormsPublications.shtm.

EXPLANATIONS WHICH MAY BE HELPFUL IN STUDYING THESE ACTS:

1. *Italicized* words indicate new language.

2. ~~Lined through~~ words indicate language that has been removed.

3. The table of contents is divided into four categories: Traffic, Criminal, Firearms and Miscellaneous. The bills in those categories are presented in either **full text** or **summary** form. Summarized bills are less relevant, yet still important legislation, and are found at the back of each section. Although summarized bills are not discussed in the recorded Selected Acts presentation, they should be reviewed.

4. Emergency Acts - are Acts with an emergency clause and were effective the moment they were signed by the Governor. Generally, the emergency clause appears as the last sentence of the Act.

5. Effective date - All Acts, other than those containing an emergency clause or those specifying a delayed effective date, become law on July 1, 2018. Note that different portions of a bill may carry different effective dates.

6. A brief overview outlining changes, provided by the Division of Legislative Services, appears at the beginning of each full text bill. This overview is only a brief synopsis of the bill. Before taking any enforcement action, carefully read the entire bill. Also, note that the Table of Contents contains a bill description which is not necessarily the same as the short title of the bill.

7. Questions regarding Selected Acts may be directed to the Office of Legal Affairs at (804) 674-6722.

8. Additional information on legislation may be found at: https://lis.virginia.gov/ and the Virginia State Police website at www.vsp.state.va.us.

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TRAFFIC – FULL TEXT

Auxiliary lighting on motorcycles and autocycles. Provides that motorcycles and autocycles may be equipped with red or amber standard bulb running lights or light-emitting diode (LED) pods or strips as auxiliary lighting. The bill requires such lights to (i) be directed at the ground, (ii) be designed for vehicular use, (iii) not emit a beam of light greater than 25 candlepower per bulb, (iv) not be attached to wheels, and (v) not be blinking, flashing, oscillating, or rotating. Such lighting is not subject to approval by the Superintendent of State Police.

CHAPTER 763

*An Act to amend and reenact § **46.2-1012** of the Code of Virginia, relating to auxiliary lights on motorcycles and autocycles.*

[H 1464]
Approved April 4, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1012** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1012**. Headlights, auxiliary headlights, tail lights, brake lights, auxiliary lights, and illumination of license plates on motorcycles or autocycles.

Every motorcycle or autocycle shall be equipped with at least one headlight which shall be of a type that has been approved by the Superintendent and shall be capable of projecting sufficient light to the front of such motorcycle or autocycle to render discernible a person or object at a distance of 200 feet. However, the lights shall not project a glaring or dazzling light to persons approaching such motorcycles or autocycles. In addition, each motorcycle or autocycle may be equipped with not more than two auxiliary headlights of a type approved by the Superintendent *except as otherwise provided in this section*.

Motorcycles or autocycles may be equipped with means of modulating the high beam of their headlights between high and low beam at a rate of 200 to 280 flashes per minute. Such headlights shall not be so modulated during periods when headlights would ordinarily be required to be lighted under § **46.2-1030**.

*Notwithstanding § **46.2-1002**, motorcycles or autocycles may be equipped with standard bulb running lights or light-emitting diode (LED) pods or strips as auxiliary lighting. Such lighting shall be (i) either red or amber in color, (ii) directed toward the ground in such a manner that no part of the beam will strike the level of the surface on which the motorcycle or autocycle stands at a distance of more than 10 feet from the vehicle, and (iii) designed for vehicular use. Such lighting shall not (a) project a beam of light of an intensity greater than 25 candlepower or its equivalent from a single lamp or bulb; (b) be blinking, flashing, oscillating, or rotating; or (c) be attached to the wheels of the motorcycle or autocycle.*

Every motorcycle or autocycle registered in the Commonwealth and operated on the highways of the Commonwealth shall be equipped with at least one brake light of a type approved by the Superintendent. Motorcycles or autocycles may be equipped with one or more auxiliary brake lights of a type approved by the Superintendent. The Superintendent may by regulation prescribe or limit the size, number, location, and configuration of such auxiliary brake lights.

Every motorcycle or autocycle shall carry at the rear at least one or more red lights plainly visible in clear weather from a distance of 500 feet to the rear of such vehicle. Such tail lights shall be constructed and so mounted in their relation to the rear license plate as to illuminate the license plate with a white light so that the same may be read from a distance of 50 feet to the rear of such vehicle. Alternatively, a separate white light shall be so mounted as to illuminate the rear license plate from a distance of 50 feet to the rear of such vehicle. Any such tail lights or special white light shall be of a type approved by the Superintendent.

Motorcycles or autocycles may be equipped with a means of varying the brightness of the vehicle's brake light upon application of the vehicle's brakes.

Lighting devices on motor vehicles; covering. Provides that if certain lighting devices are unlit, have a clear lens, and have a clear reflector if the lighting device has a reflector, then a vehicle equipped with such lighting device may be operated on the highways without covering the lighting device.

CHAPTER 72

*An Act to amend and reenact § **46.2-1020** of the Code of Virginia, relating to lighting devices on motor vehicles; covering.*

[H 1354]
Approved March 2, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1020** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1020**. Other permissible lights.

Any motor vehicle may be equipped with fog lights, not more than two of which can be illuminated at any time, one or two auxiliary driving lights if so equipped by the manufacturer, two daytime running lights, two side lights of not more than six candlepower, an interior light or lights of not more than 15 candlepower each, and signal lights.

The provision of this section limiting interior lights to no more than 15 candlepower shall not apply to (i) alternating, blinking, or flashing colored emergency lights mounted inside law-enforcement motor vehicles which may otherwise legally be equipped with such colored emergency lights, or (ii) flashing shielded red or red and white lights, authorized under § **46.2-1024**, mounted inside vehicles owned or used by (a) members of volunteer fire companies or volunteer emergency medical services agencies, (b) professional firefighters, or (c) police chaplains. A vehicle equipped with lighting devices as authorized in this section shall be operated by a police chaplain only if he has successfully completed a course of training in the safe operation of a motor vehicle under emergency conditions and a certificate attesting to such successful completion, signed by the course instructor, is carried at all times in the vehicle when operated by the police chaplain to whom the certificate applies.

Unless such lighting device *(i)* is both covered and unlit *or (ii) has a clear lens, any reflector in such lighting device is clear, and such lighting device is unlit*, no motor vehicle ~~which~~ *that* is equipped with any lighting device other than lights required or permitted in this article, required or approved by the Superintendent, or required by the federal Department of Transportation shall be operated on any highway in the Commonwealth. Nothing in this section shall permit any vehicle, not otherwise authorized, to be equipped with colored emergency lights, whether blinking or steady-burning.

Public utility service vehicles; yielding right-of-way or reducing speed. Authorizes vehicles used by any public utility company for the purpose of repairing, installing, or maintaining electric or natural gas utility equipment or service to use certain high-intensity amber warning lights. The bill provides that if such a vehicle is stationary and displaying such lights, drivers shall, if possible, make a lane change to the lane not adjacent to the vehicle or reduce speed and proceed with caution.

CHAPTER 263

An Act to amend and reenact §§ 46.2-921.1 and 46.2-1026 of the Code of Virginia, relating to public utility vehicles; yielding right-of-way or reducing speed.

[H 955]

Approved March 9, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-921.1** and **46.2-1026** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-921.1**. Drivers to yield right-of-way or reduce speed when approaching stationary emergency vehicles or public utility vehicles on highways; penalties.

A. The driver of any motor vehicle, upon approaching a stationary vehicle that is displaying a flashing, blinking, or alternating blue, red, or amber light or lights as provided in § **46.2-1022**, **46.2-1023**, or **46.2-1024** ~~or~~, subdivision A 1 or ~~A~~ 2 of § **46.2-1025**, *or subsection B of § 46.2-1026* shall (i) on a highway having at least four lanes, at least two of which are intended for traffic proceeding as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle or (ii) if changing lanes would be unreasonable or unsafe, proceed with due caution and maintain a safe speed for highway conditions.

B. A violation of any provision of this section shall be punishable as a traffic infraction, except that a second or subsequent violation of any provision of this section, when such violation involved a vehicle with flashing, blinking, or alternating blue or red lights, shall be punishable as a Class 1 misdemeanor.

C. If the violation resulted in damage to property of another person, the court may, in addition, order the suspension of the driver's privilege to operate a motor vehicle for not more than one year. If the violation resulted in injury to another person, the court may, in addition to any other penalty imposed, order the suspension of the driver's privilege to operate a motor vehicle for not more than two years. If the violation resulted in the death of another person, the court may, in addition to any other penalty imposed, order the suspension of the driver's privilege to operate a motor vehicle for two years.

D. The provisions of this section shall not apply in highway work zones as defined in § **46.2-878.1**.

§ **46.2-1026**. Flashing high-intensity amber warning lights.

A. High-intensity flashing, blinking, or alternating amber warning lights visible for at least 500 feet, of types approved by the Superintendent, shall be used on any vehicle engaged in either escorting or towing over-dimensional materials, equipment, boats, or manufactured housing units by authority of a highway hauling permit issued pursuant to § **46.2-1139**. Such lights shall be mounted on the top of the escort and tow vehicles and on the upper rear end of the over-dimensional vehicles or loads for maximum visibility, front and rear. However, any vehicles operating under a permit issued pursuant to § **46.2-1139** shall be deemed to be in compliance with the requirements of this ~~section~~ *subsection* if accompanied by escort vehicles.

The provisions of this ~~section~~ *subsection* shall apply only to vehicles or loads ~~which~~ *that* are either (i) more than ~~twelve~~ *12* feet wide or (ii) more than ~~seventy-five~~ *75* feet long.

B. Such amber warning lights may be used on any vehicle used by any public utility company for the purpose of repairing, installing, or maintaining electric or natural gas utility equipment or service.

TNC partner vehicles; interior trade dress. Provides that transportation network company (TNC) partner vehicles may be equipped with certain removable illuminated interior trade dress devices that assist passengers in identifying and communicating with TNC partners. The bill limits the display and color of such illuminated interior trade dress devices and requires a TNC that issues such devices to file the specifications of the device with the Department of Motor Vehicles. This bill is identical to **SB 128.**

CHAPTER 443

*An Act to amend and reenact § **46.2-2099.50** of the Code of Virginia, relating to TNC partner vehicles; interior trade dress.*

[H 830]
Approved March 23, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-2099.50** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-2099.50**. Requirements for TNC partner vehicles; trade dress issued by transportation network company.

A. A TNC partner vehicle shall:

1. Be a personal vehicle;

2. Have a seating capacity of no more than eight persons, including the driver;

3. Be validly titled and registered in the Commonwealth or in another state;

4. Not have been issued a certificate of title, either in Virginia or in any other state, branding the vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification;

5. Have a valid Virginia safety inspection or an annual inspection conducted in another state for which the Department of State Police has determined that such motor vehicle safety inspection standards adequately ensure public safety and carry proof of that inspection on or in the vehicle; and

6. Be covered under a TNC insurance policy meeting the requirements of § **46.2-2099.51** or **46.2-2099.52**, as applicable.

No TNC partner shall operate a TNC partner vehicle unless that vehicle meets the requirements of this subsection.

B. Before authorizing a vehicle to be used as a TNC partner vehicle, a transportation network company shall confirm that the vehicle meets the requirements of subsection A and shall provide each TNC partner with proof of any TNC insurance policy maintained by the transportation network company.

For each TNC partner vehicle it authorizes, a transportation network company shall issue trade dress to the TNC partner associated with that vehicle. The trade dress shall be sufficient to identify the transportation network company or digital platform with which the vehicle is affiliated and shall be displayed in a manner that complies with Virginia law. The trade dress shall be of such size, shape, and color as to be readily identifiable during daylight hours from a distance of 50 feet while the vehicle is not in motion and shall be reflective, illuminated, or

otherwise patently visible in darkness. The trade dress may take the form of a removable device that meets the identification and visibility requirements of this subsection.

Notwithstanding any other provision of this title, a TNC partner vehicle may be equipped with no more than two removable, illuminated, interior, TNC-issued, trade dress devices that assist passengers in identifying and communicating with TNC partners. Such devices may use a single steady-burning color while the TNC partner is logged in to a transportation network company's associated digital platform and may change to a different steady-burning color once the TNC partner accepts a request to transport a passenger and is within 0.4 miles of such passenger. The illuminated display on each such device shall not (i) exceed five candlepower; (ii) exceed 20 square inches; (iii) utilize red, blue, or amber lights; (iv) project a glaring or dazzling light; or (v) attach to the windshield.

The transportation network company shall submit to the Department proof that the transportation network company has established the trade dress required under this subsection by filing with the Department an illustration or photograph of the trade dress. *Any TNC that issues an illuminated removable interior trade dress device for use in the Commonwealth shall file with the Department the specifications of such device, including the default color.*

A TNC partner shall keep the trade dress issued under this subsection visible at all times while the vehicle is being operated as a TNC partner vehicle.

No person shall operate a vehicle bearing trade dress issued under this subsection without the authorization of the transportation network company issuing the trade dress.

Use of handheld personal communications devices; highway work zones. Imposes a mandatory fine of $250 for using a handheld personal communications device for reading emails or texting while operating a motor vehicle in a highway work zone, defined in the bill, when workers are present.

CHAPTER 606

*An Act to amend and reenact § **46.2-1078.1** of the Code of Virginia, relating to use of handheld personal communication devices; highway work zone.*

[H 1525]

Approved March 30, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1078.1** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1078.1**. Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.

A. It is unlawful for any person to operate a moving motor vehicle on the highways in the Commonwealth while using any handheld personal communications device to:

1. Manually enter multiple letters or text in the device as a means of communicating with another person; or

2. Read any email or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored within the device nor to any caller identification information.

B. The provisions of this section shall not apply to:

1. The operator of any emergency vehicle while he is engaged in the performance of his official duties;

2. An operator who is lawfully parked or stopped;

3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system; or

4. Any person using a handheld personal communications device to report an emergency.

C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of $125 and, for a second or subsequent offense, by a fine of $250. *If the violation of this section occurs in a highway work zone, it shall be punishable by a mandatory fine of $250. For the purposes of this section, "highway work zone" means a construction or maintenance area that is located on or beside a highway and marked by appropriate warning signs with attached flashing lights or other traffic control devices indicating that work is in progress.*

For the purposes of this section, "emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;

3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;

4. Any emergency medical services vehicle designed or used for the principal purpose of emergency medical services where human life is endangered;

5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;

6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and

7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § **46.2-1029.2**.

D. Distracted driving shall be included as a part of the driver's license knowledge examination.

Parked vehicles; registration, licensing, and titling requirements. Expands from vehicles operated on a highway to vehicles operated or parked on a highway the class of vehicles subject to registration, licensing, and titling requirements. The bill contains technical amendments.

CHAPTER 425

*An Act to amend and reenact § **46.2-613** of the Code of Virginia, relating to parked vehicles; registration, licensing, and titling requirements.*

[H 236]
Approved March 23, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-613** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-613**. Offenses relating to registration, licensing, and certificates of title; penalties.

A. No person shall:

1. Operate, *park,* or permit the operation *or parking* of a motor vehicle, trailer, or semitrailer owned, leased, or otherwise controlled by him ~~to be operated~~ on a highway unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals, if any, assigned to it by the Department for the current registration period, subject to the exemptions mentioned in Article 5 (§ **46.2-655** et seq.) and Article 6 (§ **46.2-662** et seq.). The provisions of this subdivision shall apply to the registration, licensing, and titling of mopeds on or after July 1, 2014.

2. Display~~,~~ *or* cause or permit to be displayed~~,~~ any registration card, certificate of title, or license plate or decal ~~which~~ *that* he knows is fictitious or ~~which~~ *that* he knows has been cancelled, revoked, suspended, or altered; or display or cause or permit to be displayed on any motor vehicle, trailer, or semitrailer any license plate or decal that he knows is currently issued for another vehicle. Violation of this subdivision shall constitute a Class 2 misdemeanor.

3. Possess or ~~lend~~ *use any registration card, license plate, or decal to which he is not entitled* or knowingly permit the use of any registration card, license plate, or decal by anyone not entitled to it.

4. Fail or refuse to surrender to the Department or the Department of State Police, on demand, any certificate of title, registration card, or license plate or decal which has been suspended, cancelled, or revoked. Violation of this subdivision shall constitute a Class 2 misdemeanor.

5. Use a false name or address in any application for the registration of any motor vehicle, trailer, or semitrailer ~~or~~, for a certificate of title,or for any renewal or duplicate certificate~~,~~ or knowingly ~~to~~ make a false statement of a material fact ~~or to~~, *knowingly* conceal a material fact, or otherwise commit a fraud in any registration application. Violation of this subdivision shall constitute a Class 1 misdemeanor.

6. Willfully and intentionally violate the limitations imposed under §§ **46.2-665**, **46.2-666**, and **46.2-670** while operating an unregistered vehicle pursuant to the agricultural and horticultural exemptions allowed under those sections. A first violation of this subdivision shall constitute a traffic infraction punishable by a fine of not more than $250, and a second or subsequent violation of this subdivision shall constitute a traffic infraction punishable by a fine of $250.

B. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

Military surplus motor vehicles; registration and operation on highways. Authorizes the Department of Motor Vehicles to issue a registration card and license plates for military surplus motor vehicles, as defined in the bill. The bill limits the use and travel distance of military surplus motor vehicles and provides that any law-enforcement officer may require any person operating a military surplus motor vehicle to provide the address at which the vehicle is stored for use and the destination of such operation. The bill exempts military surplus motor vehicles from emissions standards.

CHAPTER 555

*An Act to amend and reenact §§ **46.2-100**, **46.2-711**, **46.2-1158.01**, and **46.2-1179** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **46.2-730.1**, relating to military surplus motor vehicles; registration and operation on highways; penalty.*

[H 1323]

Approved March 30, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-100**, **46.2-711**, **46.2-1158.01**, and **46.2-1179** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered **46.2-730.1** as follows:

§ **46.2-100**. Definitions.

As used in this title, unless the context requires a different meaning:

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles on their power unit, designed and used exclusively for the transportation of motor vehicles or used to transport cargo or general freight on a backhaul pursuant to the provisions of 49 U.S.C. § 31111(a)(1).

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ **46.2-800** et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or autocycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall

be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ **46.2-341.1** et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ **46.2-800** et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric personal delivery device" means an electrically powered device that (i) is operated on sidewalks, shared-use paths, and crosswalks and intended primarily to transport property; (ii) weighs less than 50 pounds, excluding cargo; (iii) has a maximum speed of 10 miles per hour; and (iv) is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.

"Electric personal delivery device operator" means an entity or its agent who exercises direct physical control or monitoring over the navigation system and operation of an electric personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating an electric personal delivery device. "Electric personal delivery device operator" does not include (i) an entity or person who requests the services of an electric personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of an electric personal delivery device.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii) an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider. For the purposes of Chapter 8 (§ **46.2-800** et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § **46.2-472**.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ **46.2-752**, **46.2-753**, and **46.2-754** and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" does not include a park model recreational vehicle, which is a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

*"Military surplus motor vehicle" means a multipurpose or tactical vehicle that was manufactured by or under the direction of the United States Armed Forces for off-road use and subsequently authorized for sale to civilians. "Military surplus motor vehicle" does not include specialized mobile equipment as defined in § **46.2-700**, trailers, or semitrailers.*

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ **46.2-800** et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any

device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or foot-scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or foot-scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-issued vehicle identification number, and (iii) is powered by an electric motor having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters. "Motorized skateboard or foot-scooter" includes vehicles with or without handlebars but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ **46.2-300** et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ **46.2-341.1** et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § **46.2-1600**, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or

consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ **15.2-2200** et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § **46.2-1090**. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and electric personal delivery devices.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § **46.2-113**, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § **46.2-2000**; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except electric personal delivery devices and devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ **46.2-800** et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

"Watercraft transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport watercraft on their power unit, designed and used exclusively for the transportation of watercraft.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § **46.2-677**, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

§ **46.2-711**. Furnishing number and design of plates; displaying on vehicles required.

A. The Department shall furnish one license plate for every registered moped, motorcycle, autocycle, tractor truck, semitrailer, or trailer, and two license plates for every other registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers, commercial vehicles, and trucks, other than license plates for dealers, may be of such design as to prevent removal without mutilating some part of the indicia forming a part of the license plate, when secured to the bracket.

B. The Department shall issue appropriately designated license plates for:

1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for private trips, other than TNC partner vehicles as defined in § **46.2-2000** and emergency medical services vehicles pursuant to clause (iii) of § **46.2-649.1:1**;

2. Taxicabs;

3. Passenger-carrying vehicles operated by common carriers or restricted common carriers;

4. Property-carrying motor vehicles registered pursuant to § **46.2-697** except pickup or panel trucks as defined in § **46.2-100**;

5. Applicants, other than TNC partners as defined in § **46.2-2000** and emergency medical services vehicles pursuant to clause (iii) of §**46.2-649.1:1**, who operate motor vehicles as passenger carriers for rent or hire;

6. Vehicles operated by nonemergency medical transportation carriers as defined in § **46.2-2000**; and

7. Trailers and semitrailers.

C. The Department shall issue appropriately designated license plates for motor vehicles held for rental as defined in § **58.1-1735**.

D. The Department shall issue appropriately designated license plates for low-speed vehicles.

E. *The Department shall issue appropriately designated license plates for military surplus motor vehicles registered pursuant to § **46.2-730.1***.

F. No vehicles shall be operated on the highways in the Commonwealth without displaying the license plates required by this chapter. The provisions of this subsection shall not apply to vehicles used to collect and deliver the United States mail to the extent that their rear license plates may be covered by the "CAUTION, FREQUENT STOPS, U.S. MAIL" sign when the vehicle is engaged in the collection and delivery of the United States mail.

~~F.~~ *G.* For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

*§ **46.2-730.1**. License plates for military surplus motor vehicles; fee; penalty.*

A. On receipt of an application and evidence that the applicant owns or has regular use of another passenger car, autocycle, or motorcycle, the Commissioner shall issue a registration card and appropriately designed license plates to owners of military surplus motor vehicles. These license plates shall be valid so long as title to the vehicle is vested in the applicant. The fee for the registration card and license plates for any of these vehicles shall be a one-time fee of $100.

B. Military surplus motor vehicles registered with license plates issued under this section shall not be used for general transportation purposes, including, but not limited to, daily travel to and from the owner's place of employment, but shall only be used:

1. For participation in off-road events, on-road club activities, exhibits, tours, parades, and similar events; and

2. On the highways of the Commonwealth for the purpose of selling the vehicle, obtaining repairs or maintenance, transportation to and from events as described in subdivision 1, and occasional pleasure driving not exceeding 125 miles from the address at which the vehicle is stored for use.

The registration card issued to the owner of a military surplus motor vehicle registered pursuant to this section shall indicate that such vehicle is for limited use.

C. Any owner of a military surplus motor vehicle applying for registration pursuant to this section shall submit to the Department, in the manner prescribed by the Department, certification that such vehicle is capable of being safely operated on the highways of the Commonwealth.

*Pursuant to § **46.2-1000**, the Department shall suspend the registration of any vehicle registered with license plates issued under this section that the Department or the Department of State Police determines is not properly equipped or is otherwise unsafe to operate. Any law-enforcement officer shall take possession of the license plates, registration card, and decals, if any, of any vehicle registered with license plates issued under this section when he observes any defect in such vehicle as set forth in § **46.2-1000**.*

D. Any law-enforcement officer may require any person operating a military surplus motor vehicle registered pursuant to this section to provide, upon request, the address at which the vehicle is stored for use and the destination of such operation. Any owner of a military surplus motor vehicle registered with license plates pursuant to this section who is convicted of a violation of this section is guilty of a Class 4 misdemeanor. Upon receiving a record of conviction of a violation of this section, the Department shall revoke and not reinstate the owner's privilege to register the vehicle operated in violation of this section with license plates issued pursuant to this section for a period of five years from the date of conviction.

*E. Military surplus motor vehicles registered with the Department under any other provision of this Code prior to January 1, 2019, may continue to be registered under such provision. Such vehicles shall be considered to be registered under this section for the purpose of § **46.2-1158.01**. In the event that any such vehicle is transferred to a new owner, the vehicle must be registered pursuant to this section.*

*F. No military surplus motor vehicle shall be registered as an antique vehicle pursuant to § **46.2-730**.*

§ **46.2-1158.01**. Exceptions to motor vehicle inspection requirement.

A. The following shall be exempt from inspection as required by § **46.2-1157**:

1. Four-wheel vehicles weighing less than 500 pounds and having less than 6 horsepower;

2. Boat, utility, or travel trailers that are not equipped with brakes;

3. Antique motor vehicles or antique trailers as defined in § **46.2-100** and licensed pursuant to § **46.2-730**;

4. Any motor vehicle, trailer, or semitrailer that is outside the Commonwealth at the time its inspection expires when operated by the most direct route to the owner's or operator's place of residence or the owner's legal place of business in the Commonwealth;

5. A truck, tractor truck, trailer, or semitrailer for which the period fixed for inspection has expired while the vehicle was outside the Commonwealth (i) from a point outside the Commonwealth to the place where such vehicle is kept or garaged within the Commonwealth or (ii) to a destination within the Commonwealth where such vehicle will be (a) unloaded within 24 hours of entering the Commonwealth, (b) inspected within such 24-hour period, and (c) operated, after being unloaded, only to an inspection station or to the place where it is kept or garaged within the Commonwealth;

6. New motor vehicles, new trailers, or new semitrailers operated upon the highways of the Commonwealth for the purpose of delivery from the place of manufacture to the dealer's or distributor's designated place of business or between places of business if such manufacturer, dealer, or distributor has more than one place of business; dealers or distributors may take delivery and operate upon the highways of the Commonwealth new motor vehicles, new trailers, or new semitrailers from another dealer or distributor provided a motor vehicle, trailer, or semitrailer shall not be considered new if driven upon the highways for any purpose other than the delivery of the vehicle;

7. New motor vehicles, new trailers, or new semitrailers bearing a manufacturer's license operated for test purposes by the manufacturer;

8. Motor vehicles, trailers, or semitrailers operated for test purposes by a certified inspector during the performance of an official inspection;

9. New motor vehicles, new trailers, or new semitrailers operated upon the highways of the Commonwealth over the most direct route to a location for installation of a permanent body;

10. Motor vehicles, trailers, or semitrailers purchased outside the Commonwealth driven to the purchaser's place of residence or the dealer's or distributor's designated place of business;

11. Prior to purchase from auto auctions, motor vehicles, trailers, or semitrailers operated upon the highways not to exceed a five-mile radius of such auction by prospective purchasers only for the purpose of road testing and motor vehicles, trailers, or semitrailers purchased from auto auctions operated upon the highways from such auction to (i) an official safety inspection station provided that (a) the inspection station is located between the auto auction and the purchaser's residence or place of business or within a five-mile radius of such residence or business and (b) the vehicle is taken to the inspection station on the same day the purchaser removes the vehicle from the auto auction or (ii) the purchaser's place of residence or business;

12. Motor vehicles, trailers, or semitrailers, after the expiration of a period fixed for the inspection thereof, (i) operated over the most direct route between the place where such vehicle is kept or garaged and an official inspection station or (ii) parked on a highway and that have been submitted for a motor vehicle safety inspection to an official inspection station, for the purpose of having the same inspected pursuant to a prior appointment with such station;

13. Any vehicle for transporting well-drilling machinery and mobile equipment as defined in § **46.2-700**;

14. Motor vehicles being towed in a legal manner as exempted under § **46.2-1150**;

15. Logtrailers as exempted under § **46.2-1159**;

16. Motor vehicles designed or altered and used exclusively for racing or other exhibition purposes as exempted under § **46.2-1160**;

17. Any tow dolly or converter gear as defined in § **46.2-1119**;

18. A new motor vehicle, as defined in § **46.2-1500**, that has been inspected in accordance with an inspection requirement of the manufacturer or distributor of the new motor vehicle by an employee who customarily performs such inspection on behalf of a motor vehicle dealer licensed pursuant to § **46.2-1508**. Such inspection shall be deemed to be the first inspection for the purpose of § **46.2-1158**, and an inspection approval sticker furnished by the Department of State Police at the uniform price paid by all official inspection stations to the Department of State Police for an inspection approval sticker may be affixed to the vehicle as required by § **46.2-1163**;

19. Mopeds;

20. Low-speed vehicles; ~~and~~

21. Vehicles exempt from registration pursuant to Article 6 (§ **46.2-662** et seq.) of Chapter 6*; and*

*22. Military surplus motor vehicles as defined in § **46.2-100** and licensed pursuant to § **46.2-730.1**.*

B. The following shall be exempt from inspection as required by § **46.2-1157** provided *that* (i) the commercial motor vehicle operates in interstate commerce; (ii) the commercial motor vehicle is found to meet the federal requirements for annual inspection through a self-inspection, a third-party inspection, a Commercial Vehicle Safety Alliance inspection, or a periodic inspection performed by any state with a program; (iii) the inspection has been determined by the Federal Motor Carrier Safety Administration to be comparable to or as effective as the requirements of 49 C.F.R. ~~Part 396~~ § 396.3(a); and (iv) documentation of such determination as provided for in 49 C.F.R.~~Part 396~~ § 396.3(b) is available for review by law-enforcement officials to verify that the inspection is current:

1. Any commercial motor vehicle operating in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations;

2. Any trailer or semitrailer being operated in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations.

§ **46.2-1179**. Board to adopt emissions standards.

A. The Board shall adopt emissions standards necessary to implement the emissions inspection program provided for in this article. Such standards shall include specifications and criteria that will enable the identification of vehicles whose emissions so far exceed those permissible under this article as to qualify them as "gross violators," and enable the expedited identification of such vehicles through on-road testing pursuant to § **46.2-1178.1**.

B. The Board shall establish separate and distinct emissions standards applicable to on-road testing of motor vehicles pursuant to §**46.2-1178.1**. Notwithstanding any contrary provision of this article, except for any motor vehicle registered as an antique motor vehicle *or a military surplus motor vehicle*, such criteria shall be

applicable to all motor vehicles manufactured for the 1968 model year or any more recent model year, with criteria for each model year being appropriate to that model year.

Exhaust system in good working order; exclusion. Excludes vehicles licensed as antique motor vehicles from the requirement that such vehicle be equipped with an exhaust system in good working order and in constant operation to prevent excessive or unusual levels of noise. Current law excludes antique motor vehicles manufactured prior to 1950 from such requirements.

CHAPTER 655

*An Act to amend and reenact § **46.2-1049** of the Code of Virginia, relating to exhaust system in good working order; excluded vehicles.*

[S 586]
Approved March 30, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1049** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1049**. Exhaust system in good working order.

No person shall drive and no owner of a vehicle shall permit or allow the operation of any such vehicle on a highway unless it is equipped with an exhaust system in good working order and in constant operation to prevent excessive or unusual levels of noise; provided however, that for motor vehicles, such exhaust system shall be of a type installed as standard factory equipment, or comparable to that designed for use on the particular vehicle as standard factory equipment. An exhaust system shall not be deemed to prevent excessive or unusual noise if it permits the escape of noise in excess of that permitted by the standard factory equipment exhaust system of private passenger motor vehicles or trucks of standard make.

The term "exhaust system," as used in this section, means all the parts of a vehicle through which the exhaust passes after leaving the engine block, including mufflers and other sound dissipative devices.

Chambered pipes are not an effective muffling device to prevent excessive or unusual noise, and any vehicle equipped with chambered pipes shall be deemed in violation of this section.

The provisions of this section shall not apply to (i) any antique motor vehicle ~~manufactured prior to 1950~~ *licensed pursuant to § **46.2-730***, provided *that* the engine is comparable to that designed as standard factory equipment for use on that particular vehicle, and the exhaust system is in good working order, or (ii) converted electric vehicles.

Steady-burning blue or red lights on law-enforcement vehicles. Permits law-enforcement vehicles to be equipped with steady-burning blue or red lights in addition to being equipped with flashing, blinking, or alternating blue, blue and red, blue and white, or red, white, and blue combination warning lights of types approved by the Superintendent of State Police.).

CHAPTER 651

*An Act to amend and reenact § **46.2-1022** of the Code of Virginia, relating to steady-burning blue or red lights on law-enforcement vehicles.*

[S 410]
Approved March 30, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1022** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1022**. Flashing or steady-burning blue or red, flashing red and blue or blue and white, or red, white, and blue warning lights.

Certain Department of Military Affairs vehicles and certain Virginia National Guard vehicles designated by the Adjutant General, when used in state active duty to perform particular law-enforcement functions, Department of Corrections vehicles designated by the Director of the Department of Corrections, and law-enforcement vehicles may be equipped with flashing, blinking, or alternating blue, blue and red, blue and white, or red, white, and blue combination warning lights of types approved by the Superintendent. Such warning lights may be of types constructed within turn signal housings or motorcycle headlight housings, subject to approval by the Superintendent.

Law-enforcement vehicles may also be equipped with steady-burning blue or red warning lights of types approved by the Superintendent.

Flashing red or red and white warning lights. Allows vehicles of the National Guard Chemical, Biological, Radiological, Nuclear and High Yield Explosive (CBRNE) Enhanced Response Force Package (CERFP) to utilize flashing, blinking, or alternating red or red and white combination warning lights when responding to an emergency.

CHAPTER 64

*An Act to amend and reenact § **46.2-1023** of the Code of Virginia, relating to flashing red or red and white warning lights.*

[H 563]
Approved March 2, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1023** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1023**. Flashing red or red and white warning lights.

Fire apparatus, forest warden vehicles, emergency medical services vehicles, vehicles of the Department of Emergency Management, vehicles of the Department of Environmental Quality, vehicles of the Virginia National Guard Civil Support Team *and the Virginia National Guard Chemical, Biological, Radiological, Nuclear and High Yield Explosive (CBRNE) Enhanced Response Force Package (CERFP)*when responding to an emergency, vehicles of county, city, or town Departments of Emergency Management, vehicles of the Office of Emergency Medical Services, animal warden vehicles, and vehicles used by security personnel of the Huntington Ingalls Industries, Bassett-Walker, Inc., the Winchester Medical Center, the National Aeronautics and Space Administration's Wallops Flight Facility, and, within those areas specified in their orders of appointment, by special conservators of the peace and policemen for certain places appointed pursuant to §§ **19.2-13** and **19.2-17** may be equipped with flashing, blinking, or alternating red or red and white combination warning lights of types approved by the Superintendent. Such warning lights may be of types constructed within turn signal housings or motorcycle headlight housings, subject to approval by the Superintendent.

Use of unmanned aircraft system; public bodies. Allows an unmanned aircraft system to be deployed without a warrant (i) by a law-enforcement officer to survey the scene of an accident for the purpose of crash reconstruction and record photographic or video images of the scene and (ii) by the Department of Transportation when assisting a law-enforcement officer to prepare a report of such accident because of personal injury, death, or property damage of $1,500 or more. This bill is identical to **SB 508.**

CHAPTER 546

*An Act to amend and reenact § **19.2-60.1** of the Code of Virginia, relating to use of unmanned aircraft systems by public bodies; search warrant required; exception.*

[H 1482]

Approved March 30, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-60.1** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-60.1**. Use of unmanned aircraft systems by public bodies; search warrant required.

A. As used in this section, unless the context requires a different meaning:

"Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.

"Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links, sensing devices, and the components that control the unmanned aircraft.

B. No state or local government department, agency, or instrumentality having jurisdiction over criminal law enforcement or regulatory violations, including but not limited to the Department of State Police, and no department of law enforcement as defined in § **15.2-836** of any county, city, or town shall utilize an unmanned aircraft system except during the execution of a search warrant issued pursuant to this chapter or an administrative or inspection warrant issued pursuant to law.

C. Notwithstanding the prohibition in this section, an unmanned aircraft system may be deployed without a warrant (i) when an Amber Alert is activated pursuant to § **52-34.3**~~,~~*;* (ii) when a Senior Alert is activated pursuant to § **52-34.6**~~,~~*;* (iii) when a Blue Alert is activated pursuant to § **52-34.9**~~,~~*;* (iv) where use of an unmanned aircraft system is determined to be necessary to alleviate an immediate danger to any person~~,~~*;* (v) *by a law-enforcement officer following an accident where a report is required pursuant to § **46.2-373**, to survey the scene of such accident for the purpose of crash reconstruction and record the scene by photographic or video images; (vi) by the Department of Transportation when assisting a law-enforcement officer to prepare a report pursuant to § **46.2-373**; (vii)* for training exercises related to such uses~~,~~*;* or ~~(vi)~~ *(viii)* if a person with legal authority consents to the warrantless search.

D. The warrant requirements of this section shall not apply when such systems are utilized to support the Commonwealth for purposes other than law enforcement, including damage assessment, traffic assessment, flood stage assessment, and wildfire assessment. Nothing herein shall prohibit use of unmanned aircraft systems for private, commercial, or recreational use or solely for research and development purposes by institutions of higher education and other research organizations or institutions.

E. Evidence obtained through the utilization of an unmanned aircraft system in violation of this section is not admissible in any criminal or civil proceeding.

F. In no case may a weaponized unmanned aircraft system be deployed in the Commonwealth or its use facilitated in the Commonwealth by a state or local government department, agency, or instrumentality or department of law enforcement in the Commonwealth except in operations at the Space Port and Naval/Aegis facilities at Wallops Island.

G. Nothing herein shall apply to the Armed Forces of the United States or the Virginia National Guard while utilizing unmanned aircraft systems during training required to maintain readiness for its federal mission or when facilitating training for other U.S. Department of Defense units.

Rear-facing child restraint devices. Prohibits child restraint devices from being forward-facing until, at least, the child reaches two years of age or until the child reaches the minimum weight limit for a forward-facing child restraint device as prescribed by the manufacturer of the device. The bill expands the reasons that a physician may determine that it is impractical for a child to use a child restraint system to include the child's height. The bill has a delayed effective date of July 1, 2019.

CHAPTER 402

*An Act to amend and reenact §§ **46.2-1095** and **46.2-1096** of the Code of Virginia, relating to forward-facing child restraint devices.*

[H 708]
Approved March 23, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-1095** and **46.2-1096** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-1095**. Child restraint devices required when transporting certain children; safety belts for passengers less than 18 years old required.

A. Any person who drives on the highways of Virginia any motor vehicle manufactured after January 1, 1968, shall ensure that any child, up to age eight, whom he transports therein is provided with and properly secured in a child restraint device of a type which meets the standards adopted by the United States Department of Transportation. *Such child restraint device shall not be forward-facing until at least (i) the child reaches two years of age or (ii) the child reaches the minimum weight limit for a forward-facing child restraint device as prescribed by the manufacturer of the device.* Further, ~~rear-facing~~ child restraint devices shall be placed in the back seat of a vehicle. In the event the vehicle does not have a back seat, the child restraint device may be placed in the front passenger seat only if the vehicle is either not equipped with a passenger side airbag or the passenger side airbag has been deactivated.

B. Any person transporting another person less than 18 years old, except for those required pursuant to subsection A to be secured in a child restraint device, shall ensure that such person is provided with and properly secured by an appropriate safety belt system when driving on the highways of Virginia in any motor vehicle manufactured after January 1, 1968, equipped or required by the provisions of this title to be equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices.

C. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages in a civil action.

D. A violation of this section may be charged on the uniform traffic summons form.

E. Nothing in this section shall apply to taxicabs, school buses, executive sedans, or limousines.

§ **46.2-1096**. Exceptions for certain children.

Whenever any physician licensed to practice medicine in the Commonwealth or any other state determines, through accepted medical procedures, that use of a child restraint system by a particular child would be impractical by reason of the child's weight *or height*, physical unfitness, or other medical reason, the child shall be exempt from the provisions of this article. Any person transporting a child so exempted shall carry on his or

her person or in the vehicle a signed written statement of the physician identifying the child so exempted and stating the grounds therefor.

2. That the provisions of this act shall become effective on July 1, 2019.

Safety inspection stickers; placement on motorcycles. Provides that the owner of a motorcycle that is issued a safety inspection approval sticker shall have the discretion to place the sticker on a plate securely fastened to the motorcycle for the purpose of displaying the sticker or affix the sticker directly to the motorcycle.

CHAPTER 333

*An Act to amend and reenact § **46.2-1163** of the Code of Virginia, relating to safety inspection stickers; placement on motorcycles.*

[H 1499]
Approved March 19, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1163** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1163**. Official inspection stations; safety inspection approval stickers; actions of Superintendent subject to the Administrative Process Act.

The Superintendent may designate, furnish instructions to, and supervise official inspection stations for the inspection of motor vehicles, trailers, and semitrailers and for adjusting and correcting equipment enumerated in this chapter in such a manner as to conform to specifications hereinbefore set forth. The Superintendent shall adopt and furnish to such official inspection stations regulations governing the making of inspections required by this chapter. The Superintendent may at any time, after five days' written notice, revoke the designation of any official inspection station designated by him.

If no defects are discovered or when the equipment has been corrected in accordance with this title, the official inspection station shall issue to the operator or owner of the vehicle, on forms furnished by the Department of State Police, a duplicate of which is retained by such station, a certificate showing the date of correction, registration number of the vehicle, and the official designation of such station. On or before December 1, 2010, any information an official inspection station is required to provide to the Department of State Police shall be accepted by the Department in electronic form. There also shall be placed on the windshield of the vehicle at a place to be designated by the Superintendent an approval sticker furnished by the Department of State Police. If any vehicle is not equipped with a windshield, the approval sticker shall be placed on the vehicle in a location designated by the Superintendent. If the vehicle is a motorcycle, the approval sticker may, *at the discretion of the motorcycle owner,* be placed on a plate securely fastened to the motorcycle for the purpose of displaying the sticker or ~~in any other location designated by the Superintendent~~ *affixed to the motorcycle. The Superintendent shall designate the location on which such plate shall be fastened or such sticker shall be affixed to the motorcycle*. This sticker shall be displayed on the windshield of such vehicle or at such other designated place upon the vehicle at all times when it is operated or parked on the highways in the Commonwealth and until such time as a new inspection period shall be designated and a new inspection sticker issued. Common carriers, operating under certificate from the State Corporation Commission or the Department of Motor Vehicles, who desire to do so may use with the approval of the Superintendent private inspection stations for the inspection and correction of their equipment.

The Superintendent shall provide motor vehicle safety inspection information upon the written request of an individual or corporate entity or such entity's agent. Any information provided shall not include personal information. The Superintendent may make a reasonable charge for furnishing information under this section but no fee shall be charged to any official of the Commonwealth, including court and police officials; officials of counties, cities, or towns; local government self-insurance pools; or the court, police, or licensing officials of

other states or of the federal government, provided that the information requested is for official use and such officials do not charge the Commonwealth a fee for the provision of the same or substantially similar information. Vehicle information, including all descriptive vehicle data, submitted to or received from the Department of State Police related to such a request shall not be considered a public record for the purposes of the Virginia Freedom of Information Act (§ **2.2-3700** et seq.). The fees received by the Superintendent pursuant to this section shall be paid into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department of State Police's motor vehicle safety inspection program.

Actions of the Superintendent relating to official inspection stations shall be governed by the provisions of the Administrative Process Act (§ **2.2-4000** et seq.).

TRAFFIC – SUMMARY ONLY

HB125 - §46.2-1148.1- Hauling forest products. Expands for the purpose of issuing an overweight permit for hauling forest products the definition of forest products to include rough-sawn green lumber.

HB627 and SB873 – §46.2-1540 - Inspections prior to sale; exception; certain special orders. Exempts from the requirement that motor vehicles be inspected prior to retail sale transactions (i) any motor vehicle that is sold on the basis of a special order placed with a dealer or manufacturer outside the Commonwealth by a dealer who makes modifications to such vehicle prior to delivery to the first retail customer who takes delivery outside the Commonwealth and (ii) any new motor vehicle that has previously been inspected and displays a valid state inspection sticker. For a new vehicle sold on the basis of a special order by a dealer on behalf of a nonresident, the bill expands the existing exception for an order placed with a manufacturer outside the Commonwealth to also exempt an order placed with a dealer outside the Commonwealth. The bill contains a technical amendment. This bill is identical to SB 873.

HB114 – §46.2-916.3 - Golf carts and utility vehicles on public highways; equine events. Authorizes the use of golf carts and utility vehicles to cross a one-lane or two-lane highway from one portion to another of a venue hosting an equine event, provided that the crossing occurs on the same day as the equine event, occurs in a temporary traffic control zone with a speed limit of no more than 35 miles per hour, and is monitored and controlled by a uniformed law-enforcement officer.

HB73 and SB466 – §46.2-870 – Maximum speed limits on certain highways. Increases from 55 miles per hour to 60 miles per hour the maximum speed limit on U.S. Route 301, the entirety of U.S. Route 17, and State Routes 3 and 207. This bill is identical to **SB 466.**

SB304 - §32.1-111.6 – Emergency medical services vehicles; temporary permit. Provides that a temporary permit for an emergency medical services vehicle that does not meet required standards is valid for a period of 90 days from the end of the month of issue. Under current law, such permit is valid for a period not to exceed 60 days.

HB1069 and SB575 – §46.2-646.2 – Vehicle registration extension for satisfaction of certain requirements. Expands eligibility for a one-month extension of a vehicle registration period to include persons whose vehicle registration has been withheld for failure to pay tolls. This bill is identical to **SB 575.**

HB800 and SB492 – §46.2-1233.1 – Towing; fees. Increases the maximum hookup and towing fee for passenger vehicles from $135 to $150. The bill contains a technical amendment. This bill is identical to **SB 492.**

HB55 – §46.2-870 – Maximum speed limit on U.S. Route 501. Increases from 55 miles per hour to 60 miles per hour the maximum speed limit on U.S. Route 501 between the Town of South Boston and the North Carolina state line.

HB684 – §46.2-870 – Maximum speed limits on certain highways. Increases from 55 miles per hour to 60 miles per hour the maximum speed limit on State Route 3 between the corporate limits of the Town of Warsaw and the unincorporated area of Emmerton.

SB496 – §46.2-800.2 – Off-road recreational vehicles; highway speed limit. Increases from 25 to 35 miles per hour the maximum highway speed limit wherein the governing body of any county, city, or town embraced by the Southwest Regional Recreation Authority may by ordinance authorize the operation of any off-road recreational vehicle. The bill provides that such governing body may by ordinance authorize the operation of any such vehicle for a distance of no more than five miles on any highway that has a maximum speed limit of more than 35 miles per hour.

HB581 – §46.2-1166 – Inspection stations; appointments. Removes the requirements that any official inspection station that accepts prescheduled appointments shall have two or more inspection lanes and leave one reserved for first-come, first-served inspections.

HB1349 and SB601 – §46.2-1232 and 46.2-1233 – Trespass towing. Exempts Planning District 16 (George Washington) from any requirement by a towing advisory board for written authorization, in addition to a written contract, in the event that a vehicle is being removed from private property. The bill requires that localities in Planning District 16 establish by ordinance (i) a hookup and initial towing fee of $135; (ii) an additional fee of $25 for towing at night, on weekends, or on a holiday; and (iii) that no fee pursuant to clause (ii) shall be charged more than twice for a tow. This bill is identical to **SB 601.**

HB214 and SB73 – §46.2-1148 – Overweight permits for hauling Virginia-grown farm produce; bridges and culverts. Provides that no five-axle-combination vehicle shall be issued an overweight permit for hauling Virginia-grown farm produce unless such vehicle has no less than 42 feet of axle space between extreme axles. The bill provides that no vehicle issued an overweight permit for hauling Virginia-grown farm produce shall cross any bridge or culvert in the Commonwealth if the gross weight of such vehicle is greater than the amount posted for the bridge or culvert as its carrying capacity. Current law requires specific weight limitations based upon axle weights or axle spacing. This bill is identical to **SB 73.**

CRIMINAL – FULL TEXT

Grand larceny; threshold. Increases from $200 to $500 the threshold amount of money taken or value of goods or chattel taken at which the crime rises from petit larceny to grand larceny. The bill increases the threshold by the same amount for the classification of certain property crimes. This bill is identical to **SB 105.**

CHAPTER 764

*An Act to amend and reenact §§ **18.2-23**, **18.2-80**, **18.2-81**, **18.2-95** through **18.2-97**, **18.2-102**, **18.2-103**, **18.2-108.01**, **18.2-145.1**, **18.2-150**, **18.2-152.3**, **18.2-162**, **18.2-181**, **18.2-181.1**, **18.2-182**, **18.2-186**, **18.2-186.3**, **18.2-187.1**, **18.2-188**, **18.2-195**, **18.2-195.2**, **18.2-197**, **18.2-340.37**, **19.2-289**, **19.2-290**, **19.2-386.16**, and **29.1-553** of the Code of Virginia, relating to grand larceny and certain property crimes; threshold.*

[H 1550]

Approved April 4, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-23**, **18.2-80**, **18.2-81**, **18.2-95** through **18.2-97**, **18.2-102**, **18.2-103**, **18.2-108.01**, **18.2-145.1**, **18.2-150**, **18.2-152.3**, **18.2-162**, **18.2-181**, **18.2-181.1**, **18.2-182**, **18.2-186**, **18.2-186.3**, **18.2-187.1**, **18.2-188**, **18.2-195**, **18.2-195.2**, **18.2-197**, **18.2-340.37**, **19.2-289**, **19.2-290**, **19.2-386.16**, and **29.1-553** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-23**. Conspiring to trespass or commit larceny.

A. If any person shall conspire, confederate or combine with another or others in the Commonwealth to go upon or remain upon the lands, buildings or premises of another, or any part, portion or area thereof, having knowledge that any of them have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian or other person lawfully in charge thereof, or having knowledge that any of them have been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof at a place or places where it or they may reasonably be seen, he shall be deemed guilty of a Class 3 misdemeanor.

B. If any person shall conspire, confederate or combine with another or others in the Commonwealth to commit larceny or counsel, assist, aid or abet another in the performance of a larceny, where the aggregate value of the goods or merchandise involved is ~~more than $200~~ *$500 or more*, he is guilty of a felony punishable by confinement in a state correctional facility for not less than one year nor more than 20 years. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise. A violation of this subsection constitutes a separate and distinct felony.

C. Jurisdiction for the trial of any person charged under this section shall be in the county or city wherein any part of such conspiracy is planned, or in the county or city wherein any act is done toward the consummation of such plan or conspiracy.

§ **18.2-80**. Burning or destroying any other building or structure.

If any person maliciously, or with intent to defraud an insurance company or other person, burn, or by the use of any explosive device or substance, maliciously destroy, in whole or in part, or cause to be burned or destroyed, or aid, counsel or procure the burning or destruction of any building, bridge, lock, dam or other structure, whether the property of himself or of another, at a time when any person is therein or thereon, the burning or

destruction whereof is not punishable under any other section of this chapter, he shall be guilty of a Class 3 felony. If he commits such offense at a time when no person is in such building, or other structure, and such building, or other structure, with the property therein, be of the value of ~~$200,~~ *$500* or more, he shall be guilty of a Class 4 felony, and if it and the property therein be of less value, he shall be guilty of a Class 1 misdemeanor.

§ **18.2-81**. Burning or destroying personal property, standing grain, etc.

If any person maliciously, or with intent to defraud an insurance company or other person, set fire to or burn or destroy by any explosive device or substance, or cause to be burned, or destroyed by any explosive device or substance, or aid, counsel, or procure the burning or destroying by any explosive device or substance, of any personal property, standing grain or other crop, he shall, if the thing burnt or destroyed~~,~~ be of the value of ~~$200~~ *$500* or more, be guilty of a Class 4 felony; and if the thing burnt or destroyed be of less value, he shall be guilty of a Class 1 misdemeanor.

§ **18.2-95**. Grand larceny defined; how punished.

Any person who (i) commits larceny from the person of another of money or other thing of value of $5 or more, (ii) commits simple larceny not from the person of another of goods and chattels of the value of ~~$200~~ *$500* or more, or (iii) commits simple larceny not from the person of another of any firearm, regardless of the firearm's value, shall be guilty of grand larceny, punishable by imprisonment in a state correctional facility for not less than one nor more than ~~twenty~~ *20* years or, in the discretion of the jury or court trying the case without a jury, be confined in jail for a period not exceeding ~~twelve~~ *12* months or fined not more than $2,500, either or both.

§ **18.2-96**. Petit larceny defined; how punished.

Any person who:

1. Commits larceny from the person of another of money or other thing of value of less than $5, or

2. Commits simple larceny not from the person of another of goods and chattels of the value of less than ~~$200~~ *$500*, except as provided in ~~subdivision~~ *clause* (iii) of § **18.2-95**, shall be deemed guilty of petit larceny, which shall be punishable as a Class 1 misdemeanor.

§ **18.2-96.1**. Identification of certain personalty.

A. The owner of personal property may permanently mark such property, including any part thereof, for the purpose of identification with the social security number of the owner, preceded by the letters "VA."

B. [Repealed.]

C. It shall be unlawful for any person to remove, alter, deface, destroy, conceal, or otherwise obscure the manufacturer's serial number or marks, including personalty marked with a social security number preceded by the letters "VA," from such personal property or any part thereof, without the consent of the owner, with intent to render it or other property unidentifiable.

D. It shall be unlawful for any person to possess such personal property or any part thereof, without the consent of the owner, knowing that the manufacturer's serial number or any other distinguishing identification number or

mark, including personalty marked with a social security number preceded by the letters "VA," has been removed, altered, defaced, destroyed, concealed, or otherwise obscured with the intent to violate the provisions of this section.

E. A person in possession of such property which is otherwise in violation of this section may apply in writing to the Bureau of Criminal Investigation, Virginia State Police, for assignment of a number for the personal property providing he can show that he is the lawful owner of the property. If a number is issued in conformity with the provisions of this section, then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of this section. This subsection shall apply only when the application has been filed by a person prior to arrest or authorization of a warrant of arrest for that person by a court.

F. Any person convicted of an offense under this section, when the value of the personalty is less than ~~$200~~ *$500*, shall be guilty of a Class 1 misdemeanor and, when the value of the personalty is ~~$200~~ *$500* or more, shall be guilty of a Class 5 felony.

§ **18.2-97**. Larceny of certain animals and poultry.

Any person who shall be guilty of the larceny of a dog, horse, pony, mule, cow, steer, bull, or calf shall be guilty of a Class 5 felony~~;~~, and any person who shall be guilty of the larceny of any poultry of the value of $5 ~~dollars~~ or more, but of the value of less than ~~$200~~ *$500*, or of a sheep, lamb, swine, or goat, of the value of less than ~~$200~~ *$500*, shall be guilty of a Class 6 felony.

§ **18.2-102**. Unauthorized use of animal, aircraft, vehicle or boat; consent; accessories or accomplices.

Any person who shall take, drive or use any animal, aircraft, vehicle, boat or vessel, not his own, without the consent of the owner thereof and in the absence of the owner, and with intent temporarily to deprive the owner thereof of his possession thereof, without intent to steal the same, shall be guilty of a Class 6 felony~~;~~, provided, however, that if the value of such animal, aircraft, vehicle, boat or vessel shall be less than ~~$200~~ *$500*, such person shall be guilty of a Class 1 misdemeanor. The consent of the owner of an animal, aircraft, vehicle, boat or vessel to its taking, driving or using shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking, driving or using of such animal, aircraft, vehicle, boat or vessel by the same or a different person. Any person who assists in, or is a party or accessory to, or an accomplice in, any such unauthorized taking, driving or using shall be subject to the same punishment as if he were the principal offender.

§ **18.2-103**. Concealing or taking possession of merchandise; altering price tags; transferring goods from one container to another; counseling, etc., another in performance of such acts.

Whoever, without authority, with the intention of converting goods or merchandise to his own or another's use without having paid the full purchase price thereof, or of defrauding the owner of the value of the goods or merchandise, (i) willfully conceals or takes possession of the goods or merchandise of any store or other mercantile establishment, or (ii) alters the price tag or other price marking on such goods or merchandise, or transfers the goods from one container to another, or (iii) counsels, assists, aids or abets another in the performance of any of the above acts, when the value of the goods or merchandise involved in the offense is less than ~~$200~~ *$500*, shall be guilty of petit larceny and, when the value of the goods or merchandise involved in the offense is ~~$200~~ *$500* or more, shall be guilty of grand larceny. The willful concealment of goods or merchandise

of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise.

§ **18.2-108.01**. Larceny with intent to sell or distribute; sale of stolen property; penalty.

A. Any person who commits larceny of property with a value of ~~$200~~ *$500* or more with the intent to sell or distribute such property is guilty of a felony punishable by confinement in a state correctional facility for not less than two years nor more than 20 years. The larceny of more than one item of the same product is prima facie evidence of intent to sell or intent to distribute for sale.

B. Any person who sells, attempts to sell or possesses with intent to sell or distribute any stolen property with an aggregate value of~~$200~~ *$500* or more where he knew or should have known that the property was stolen is guilty of a Class 5 felony.

C. A violation of this section constitutes a separate and distinct offense.

§ **18.2-145.1**. Damaging or destroying research farm product; penalty; restitution.

A. Any person or entity that (i) maliciously damages or destroys any farm product, as defined in § **3.2-4709**, and (ii) knows the product is grown for testing or research purposes in the context of product development in conjunction or coordination with a private research facility or a baccalaureate institution of higher education or any federal, state, or local government agency is guilty of a Class 1 misdemeanor if the value of the farm product was less than ~~$200~~ *$500*, or a Class 6 felony if the value of the farm product was ~~$200~~*$500* or more.

B. The court shall order the defendant to make restitution in accordance with § **19.2-305.1** for the damage or destruction caused. For the purpose of awarding restitution under this section, the court shall determine the market value of the farm product prior to its damage or destruction and, in so doing, shall include the cost of: (i) production, (ii) research, (iii) testing, (iv) replacement, and (v) product development directly related to the product damaged or destroyed.

§ **18.2-150**. Willfully destroying vessel, etc.

If any person willfully scuttle, cast away or otherwise dispose of, or in any manner destroy, except as otherwise provided, a ship, vessel or other watercraft, with intent to injure or defraud any owner thereof or of any property on board the same, or any insurer of such ship, vessel or other watercraft, or any part thereof, or of any such property on board the same, if the same be of the value of ~~$200~~ *$500 or more*, he shall be guilty of a Class 4 felony, but if it be of less value than ~~$200~~ *$500*, he shall be guilty of a Class 1 misdemeanor.

§ **18.2-152.3**. Computer fraud; penalty.

Any person who uses a computer or computer network, without authority and:

1. Obtains property or services by false pretenses;

2. Embezzles or commits larceny; or

3. Converts the property of another;

is guilty of the crime of computer fraud.

If the value of the property or services obtained is ~~$200~~ *$500* or more, the crime of computer fraud shall be punishable as a Class 5 felony. Where the value of the property or services obtained is less than ~~$200~~ *$500*, the crime of computer fraud shall be punishable as a Class 1 misdemeanor.

§ **18.2-162**. Damage or trespass to public services or utilities.

Any person who shall intentionally destroy or damage any facility which is used to furnish oil, telegraph, telephone, electric, gas, sewer, wastewater or water service to the public, shall be guilty of a Class 4 felony, provided that in the event *that* the destruction or damage may be remedied or repaired for ~~$200 or~~ less *than $500* such act shall constitute a Class 3 misdemeanor. On electric generating property marked with no trespassing signs, the security personnel of a utility may detain a trespasser for a period not to exceed one hour pending arrival of a law-enforcement officer.

Notwithstanding any other provisions of this title, any person who shall intentionally destroy or damage, or attempt to destroy or damage, any such facility, equipment or material connected therewith, the destruction or damage of which might, in any manner, threaten the release of radioactive materials or ionizing radiation beyond the areas in which they are normally used or contained, shall be guilty of a Class 4 felony, provided that in the event the destruction or damage results in the death of another due to exposure to radioactive materials or ionizing radiation, such person shall be guilty of a Class 2 felony; provided further, that in the event the destruction or damage results in injury to another, such person shall be guilty of a Class 3 felony.

§ **18.2-181**. Issuing bad checks, etc., larceny.

Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft, or order for the payment of money, upon any bank, banking institution, trust company, or other depository, knowing, at the time of such making, drawing, uttering or delivering, that the maker or drawer has not sufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of larceny; and, if this check, draft, or order has a represented value of ~~$200~~ *$500* or more, such person shall be guilty of a Class 6 felony. In cases in which such value is less than ~~$200~~ *$500*, the person shall be guilty of a Class 1 misdemeanor.

The word "credit" as used herein, shall be construed to mean any arrangement or understanding with the bank, trust company, or other depository for the payment of such check, draft or order.

Any person making, drawing, uttering or delivering any such check, draft or order in payment as a present consideration for goods or services for the purposes set out in this section shall be guilty as provided herein.

§ **18.2-181.1**. Issuance of bad checks.

It shall be a Class 6 felony for any person, within a period of ~~ninety~~ *90* days, to issue two or more checks, drafts or orders for the payment of money in violation of § **18.2-181**, ~~which~~ *that* have an aggregate represented value of ~~$200~~ *$500* or more and ~~which~~ *that* (i) are drawn upon the same account of any bank, banking institution, trust company or other depository and (ii) are made payable to the same person, firm or corporation.

§ **18.2-182**. Issuing bad checks on behalf of business firm or corporation in payment of wages; penalty.

Any person who shall make, draw, or utter, or deliver any check, draft, or order for the payment of money, upon any bank, banking institution, trust company or other depository on behalf of any business firm or corporation, for the purpose of paying wages to any employee of such firm or corporation, or for the purpose of paying for any labor performed by any person for such firm or corporation, knowing, at the time of such making, drawing, uttering or delivering, that the account upon which such check, draft or order is drawn has not sufficient funds, or credit with, such bank, banking institution, trust company or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of a Class 1 misdemeanor; except that if this check, draft, or order has a represented value of ~~$200~~ *$500* or more, such person shall be guilty of a Class 6 felony.

The word "credit," as used herein, shall be construed to mean any arrangement or understanding with the bank, banking institution, trust company, or other depository for the payment of such check, draft or order.

In addition to the criminal penalty set forth herein, such person shall be personally liable in any civil action brought upon such check, draft or order.

§ **18.2-186**. False statements to obtain property or credit.

A. A person shall be guilty of a Class 1 misdemeanor if he makes, causes to be made or conspires to make directly, indirectly or through an agency, any materially false statement in writing, knowing it to be false and intending that it be relied upon, concerning the financial condition or means or ability to pay of himself, or of any other person for whom he is acting, or any firm or corporation in which he is interested or for which he is acting, for the purpose of procuring, for his own benefit or for the benefit of such person, firm or corporation, the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the discount of an account receivable, or the making, acceptance, discount, sale or endorsement of a bill of exchange or promissory note.

B. Any person who knows that a false statement has been made in writing concerning the financial condition or ability to pay of himself or of any person for whom he is acting, or any firm or corporation in which he is interested or for which he is acting and who, with intent to defraud, procures, upon the faith thereof, for his own benefit, or for the benefit of the person, firm or corporation in which he is interested or for which he is acting, any such delivery, payment, loan, credit, extension, discount making, acceptance, sale or endorsement, shall, if the value of the thing or the amount of the loan, credit or benefit obtained is ~~$200~~ *$500* or more, be guilty of grand larceny or, if the value is less than ~~$200~~ *$500*, be guilty of petit larceny.

C. Venue for the trial of any person charged with an offense under this section may be in the county or city in which (i) any act was performed in furtherance of the offense, or (ii) the person charged with the offense resided at the time of the offense.

D. As used in this section, "in writing" shall include information transmitted by computer, facsimile, e-mail, Internet, or any other electronic medium, and shall not include information transmitted by any such medium by voice transmission.

§ **18.2-186.3**. Identity theft; penalty; restitution; victim assistance.

A. It shall be unlawful for any person, without the authorization or permission of the person or persons who are the subjects of the identifying information, with the intent to defraud, for his own use or the use of a third person, to:

1. Obtain, record, or access identifying information which is not available to the general public that would assist in accessing financial resources, obtaining identification documents, or obtaining benefits of such other person;

2. Obtain money, credit, loans, goods, or services through the use of identifying information of such other person;

3. Obtain identification documents in such other person's name; or

4. Obtain, record, or access identifying information while impersonating a law-enforcement officer or an official of the government of the Commonwealth.

B. It shall be unlawful for any person without the authorization or permission of the person who is the subject of the identifying information, with the intent to sell or distribute the information to another to:

1. Fraudulently obtain, record, or access identifying information that is not available to the general public that would assist in accessing financial resources, obtaining identification documents, or obtaining benefits of such other person;

2. Obtain money, credit, loans, goods, or services through the use of identifying information of such other person;

3. Obtain identification documents in such other person's name; or

4. Obtain, record, or access identifying information while impersonating a law-enforcement officer or an official of the Commonwealth.

B1. It shall be unlawful for any person to use identification documents or identifying information of another person, whether that person is dead or alive, or of a false or fictitious person, to avoid summons, arrest, prosecution, or to impede a criminal investigation.

C. As used in this section, "identifying information" shall include but not be limited to: (i) name; (ii) date of birth; (iii) social security number; (iv) driver's license number; (v) bank account numbers; (vi) credit or debit card numbers; (vii) personal identification numbers (PIN); (viii) electronic identification codes; (ix) automated or electronic signatures; (x) biometric data; (xi) fingerprints; (xii) passwords; or (xiii) any other numbers or information that can be used to access a person's financial resources, obtain identification, act as identification, or obtain money, credit, loans, goods, or services.

D. Violations of this section shall be punishable as a Class 1 misdemeanor. Any violation resulting in financial loss of ~~greater than $200~~*$500 or more* shall be punishable as a Class 6 felony. Any second or subsequent conviction shall be punishable as a Class 6 felony. Any violation of subsection B where five or more persons' identifying information has been obtained, recorded, or accessed in the same transaction or occurrence shall be punishable as a Class 5 felony. Any violation of subsection B where 50 or more persons' identifying information has been obtained, recorded, or accessed in the same transaction or occurrence shall be punishable as a Class 4

felony. Any violation resulting in the arrest and detention of the person whose identification documents or identifying information were used to avoid summons, arrest, prosecution, or to impede a criminal investigation shall be punishable as a Class 5 felony. In any proceeding brought pursuant to this section, the crime shall be considered to have been committed in any locality where the person whose identifying information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in such locality.

E. Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution as the court deems appropriate to any person whose identifying information was appropriated or to the estate of such person. Such restitution may include the person's or his estate's actual expenses associated with correcting inaccuracies or errors in his credit report or other identifying information.

F. Upon the request of a person whose identifying information was appropriated, the Attorney General may provide assistance to the victim in obtaining information necessary to correct inaccuracies or errors in his credit report or other identifying information; however, no legal representation shall be afforded such person.

§ **18.2-187.1**. Obtaining or attempting to obtain oil, electric, gas, water, telephone, telegraph, cable television or electronic communication service without payment; penalty; civil liability.

A. It shall be unlawful for any person knowingly, with the intent to defraud, to obtain or attempt to obtain, for himself or for another, oil, electric, gas, water, telephone, telegraph, cable television or electronic communication service by the use of any false information, or in any case where such service has been disconnected by the supplier and notice of disconnection has been given.

B. It shall be unlawful for any person to obtain or attempt to obtain oil, electric, gas, water, telephone, telegraph, cable television or electronic communication service by the use of any scheme, device, means or method, or by a false application for service with intent to avoid payment of lawful charges therefor.

B1. It shall be unlawful for any person to obtain, or attempt to obtain, electronic communication service as defined in § **18.2-190.1** by the use of an unlawful electronic communication device as defined in § **18.2-190.1**.

C. The word "notice" as used in subsection A shall be notice given in writing to the person to whom the service was assigned. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to such person at his last known address, requiring delivery to the addressee only with return receipt requested, and the actual signing of the receipt for such mail by the addressee, shall be prima facie evidence that such notice was duly received.

D. Any person who violates any provisions of this section, if the value of service, credit or benefit procured is ~~$200~~ *$500* or more, shall be guilty of a Class 6 felony; or if the value is less than ~~$200~~ *$500*, shall be guilty of a Class 1 misdemeanor. In addition, the court may order restitution for the value of the services unlawfully used and for all costs. Such costs shall be limited to actual expenses, including the base wages of employees acting as witnesses for the Commonwealth, and suit costs. However, the total amount of allowable costs granted hereunder shall not exceed $250, excluding the value of the service.

E. Any party providing oil, electric, gas, water, telephone, telegraph, cable television or electronic communication service who is aggrieved by a violation of this section may, in a civil proceeding in any court of competent jurisdiction, seek both injunctive and equitable relief, and an award of damages,

including ~~attorney's~~ *attorney* fees and costs. In addition to any other remedy provided by law, the party aggrieved may recover an award of actual damages or $500, whichever is greater, for each action.

§ **18.2-188**. Defrauding hotels, motels, campgrounds, boardinghouses, etc.

It shall be unlawful for any person, without paying therefor, and with the intent to cheat or defraud the owner or keeper to:

1. Put up at a hotel, motel, campground or boardinghouse;

2. Obtain food from a restaurant or other eating house;

3. Gain entrance to an amusement park; or

4. Without having an express agreement for credit, procure food, entertainment or accommodation from any hotel, motel, campground, boardinghouse, restaurant, eating house or amusement park.

It shall be unlawful for any person, with intent to cheat or defraud the owner or keeper out of the pay therefor to obtain credit at a hotel, motel, campground, boardinghouse, restaurant or eating house for food, entertainment or accommodation by means of any false show of baggage or effects brought thereto.

It shall be unlawful for any person, with intent to cheat or defraud, to obtain credit at a hotel, motel, campground, boardinghouse, restaurant, eating house or amusement park for food, entertainment or accommodation through any misrepresentation or false statement.

It shall be unlawful for any person, with intent to cheat or defraud, to remove or cause to be removed any baggage or effects from a hotel, motel, campground, boardinghouse, restaurant or eating house while there is a lien existing thereon for the proper charges due from him for fare and board furnished.

Any person who violates any provision of this section ~~shall~~ *is*, if the value of service, credit or benefit procured or obtained is ~~$200~~ *$500* or more, ~~be~~ guilty of a Class 5 felony~~;~~ or *is,* if the value is less than ~~$200~~ *$500, guilty of* a Class 1 misdemeanor.

§ **18.2-195**. Credit card fraud; conspiracy; penalties.

(1) A person is guilty of credit card fraud when, with intent to defraud any person, he:

(a) Uses for the purpose of obtaining money, goods, services or anything else of value a credit card or credit card number obtained or retained in violation of § **18.2-192** or a credit card or credit card number which he knows is expired or revoked;

(b) Obtains money, goods, services or anything else of value by representing (i) without the consent of the cardholder that he is the holder of a specified card or credit card number or (ii) that he is the holder of a card or credit card number and such card or credit card number has not in fact been issued;

(c) Obtains control over a credit card or credit card number as security for debt; or

(d) Obtains money from an issuer by use of an unmanned device of the issuer or through a person other than the issuer when he knows that such advance will exceed his available credit with the issuer and any available balances held by the issuer.

(2) A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card or credit card number by the cardholder, or any agent or employee of such person, is guilty of a credit card fraud when, with intent to defraud the issuer or the cardholder, he:

(a) Furnishes money, goods, services or anything else of value upon presentation of a credit card or credit card number obtained or retained in violation of § **18.2-192**, or a credit card or credit card number which he knows is expired or revoked;

(b) Fails to furnish money, goods, services or anything else of value which he represents or causes to be represented in writing or by any other means to the issuer that he has furnished; or

(c) Remits to an issuer or acquirer a record of a credit card or credit card number transaction which is in excess of the monetary amount authorized by the cardholder.

(3) Conviction of credit card fraud is punishable as a Class 1 misdemeanor if the value of all money, goods, services and other things of value furnished in violation of this section, or if the difference between the value of all money, goods, services and anything else of value actually furnished and the value represented to the issuer to have been furnished in violation of this section, ~~does not exceed $200~~ *is less than $500* in any six-month period; conviction of credit card fraud is punishable as a Class 6 felony if such value ~~exceeds $200~~ *is $500 or more* in any six-month period.

(4) Any person who conspires, confederates or combines with another, (i) either within or without the Commonwealth to commit credit card fraud within the Commonwealth or (ii) within the Commonwealth to commit credit card fraud within or without the Commonwealth, is guilty of a Class 6 felony.

§ **18.2-195.2**. Fraudulent application for credit card; penalties.

A. A person shall be guilty of a Class 1 misdemeanor if he makes, causes to be made or conspires to make, directly, indirectly or through an agency, any materially false statement in writing concerning the financial condition or means or ability to pay of himself or of any other person for whom he is acting or any firm or corporation in which he is interested or for which he is acting, knowing the statement to be false and intending that it be relied upon for the purpose of procuring a credit card. However, if the statement is made in response to an unrequested written solicitation from the issuer or an agent of the issuer to apply for a credit card, he shall be guilty of a Class 4 misdemeanor.

B. A person who knows that a false statement has been made in writing concerning the financial condition or ability to pay of himself or of any person for whom he is acting or any firm or corporation in which he is interested or for which he is acting and who with intent to defraud, procures a credit card, upon the faith of such false statement, for his own benefit, or for the benefit of the person, firm or corporation in which he is interested or for which he is acting, and obtains by use of the credit card, money, property, services or any thing of value, is guilty of grand larceny if the value of whatever is obtained is ~~$200~~ *$500* or more or petit larceny if the value is less than ~~$200~~ *$500*.

C. As used in this section, "in writing" shall include information transmitted by computer, facsimile, e-mail, Internet, or any other electronic medium, and shall not include information transmitted by any such medium by voice transmission.

§ **18.2-197**. Criminally receiving goods and services fraudulently obtained.

A person is guilty of criminally receiving goods and services fraudulently obtained when he receives money, goods, services or anything else of value obtained in violation of subsection (1) of § **18.2-195** with the knowledge or belief that the same were obtained in violation of subsection (1) of § **18.2-195**. Conviction of criminal receipt of goods and services fraudulently obtained is punishable as a Class 1 misdemeanor if the value of all money, goods, services and anything else of value, obtained in violation of this section, ~~does not exceed $200~~ *is less than $500* in any six-month period; conviction of criminal receipt of goods and services fraudulently obtained is punishable as a Class 6 felony if such value ~~exceeds $200~~ *is $500 or more* in any six-month period.

§ **18.2-340.37**. Criminal penalties.

A. Any person who violates the provisions of this article or who willfully and knowingly files, or causes to be filed, a false application, report or other document or who willfully and knowingly makes a false statement, or causes a false statement to be made, on any application, report or other document required to be filed with or made to the Department shall be guilty of a Class 1 misdemeanor.

B. Each day in violation shall constitute a separate offense.

C. Any person who converts funds derived from any charitable gaming to his own or another's use, when the amount of funds is less than ~~$200~~ *$500*, shall be guilty of petit larceny and, when the amount of funds is ~~$200~~ *$500* or more, shall be guilty of grand larceny. The provisions of this section shall not preclude the applicability of any other provision of the criminal law of the Commonwealth that may apply to any course of conduct that violates this section.

§ **19.2-289**. Conviction of petit larceny.

In a prosecution for grand larceny, if it be found that the thing stolen is of less value than ~~$200~~ *$500*, the jury may find the accused guilty of petit larceny.

§ **19.2-290**. Conviction of petit larceny though thing stolen worth $500 or more.

In a prosecution for petit larceny, though the thing stolen be of the value of ~~$200~~ *$500* or more, the jury may find the accused guilty~~;~~, and upon a conviction under this section or § **19.2-289** the accused shall be sentenced for petit larceny.

§ **19.2-386.16**. Forfeiture of motor vehicles used in commission of certain crimes.

A. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a second or subsequent offense of § **18.2-346**, **18.2-347**, **18.2-348**, **18.2-349**, **18.2-355**, **18.2-356** or **18.2-357** or of a similar ordinance of any county, city or town or knowingly used for the transportation of any stolen goods, chattels or other property, when the value of such stolen goods, chattels or other property is ~~$200~~ *$500* or more, or any stolen property obtained as a result of a

robbery, without regard to the value of the property, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

B. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a misdemeanor violation of subsection D of § **18.2-47** or a felony violation of (i) Article 3 (§ **18.2-47** et seq.) of Chapter 4 of Title 18.2 or (ii) § **18.2-357** where the prostitute is a minor, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

C. Forfeiture of such vehicle shall be enforced as is provided in Chapter 22.1 (§ **19.2-386.1** et seq.).

§ **29.1-553**. Selling or offering for sale; penalty.

A. Any person who offers for sale, sells, offers to purchase, or purchases any wild bird or wild animal, or any part thereof, or any freshwater fish, except as provided by law, shall be guilty of a Class 1 misdemeanor. However, when the aggregate of such sales or purchases, or any combination thereof, by any person totals ~~$200~~ *$500* or more during any 90-day period, that person shall be guilty of a Class 6 felony.

B. Whether or not criminal charges have been placed, when any property is taken possession of by a conservation police officer for the purpose of being used as evidence of a violation of this section or for confiscation, the conservation police officer making such seizure shall immediately report the seizure to the Attorney for the Commonwealth.

C. In any prosecution for a violation of this section, photographs of the wild bird, wild animal, or any freshwater fish, or any part thereof shall be deemed competent evidence of such wild bird, wild animal, or freshwater fish, or part thereof and shall be admissible in any proceeding, hearing, or trial of the case to the same extent as if such wild bird, wild animal, or any freshwater fish, or part thereof had been introduced as evidence. Such photographs shall bear a written description of the wild bird, wild animal, or freshwater fish, or parts thereof, the name of the place where the alleged offense occurred, the date on which the alleged offense occurred, the name of the accused, the name of the arresting officer or investigating officer, the date of the photograph, and the name of the photographer. The photographs shall be identified by the signature of the photographer.

D. Any licensed Virginia auctioneer or licensed auction firm that sells, as a legitimate item of an auction sale, wildlife mounts that have undergone the taxidermy process, shall be exempt from the provisions of this section and subdivision A 11 of § **29.1-521**.

Fleeing from a law-enforcement officer. Relocates the existing section prohibiting fleeing from a law-enforcement officer to a more logical location with prohibitions for obstructing justice and resisting arrest.

CHAPTER 417

An Act to amend and reenact §§ 18.2-460 and 19.2-310.2 of the Code of Virginia and to repeal § 18.2-479.1 of the Code of Virginia, relating to fleeing from a law-enforcement officer.

[S 57]
Approved March 23, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-460** and **19.2-310.2** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-460**. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer; penalties.

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § **3.2-6555** in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § **3.2-6555**, he ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or an animal control officer employed pursuant to § **3.2-6555** lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1 misdemeanor.

C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court relating to a violation of or conspiracy to violate § **18.2-248** or subdivision (a) (3), (b) or (c) of § **18.2-248.1**, or § **18.2-46.2** or § **18.2-46.3**, or relating to the violation of or conspiracy to violate any violent felony offense listed in subsection C of § **17.1-805**, he ~~shall be~~ *is* guilty of a Class 5 felony.

D. Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer or an animal control officer employed pursuant to § **3.2-6555** who is in the course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such communication knows or should know that he is not free to leave.

§ **19.2-310.2**. Blood, saliva, or tissue sample required for DNA analysis upon conviction of certain crimes; fee.

A. Every person convicted of a felony on or after July 1, 1990, every person convicted of a felony offense under Article 7 (§ **18.2-61** et seq.) of Chapter 4 of Title 18.2 who was incarcerated on July 1, 1989, and every person convicted of a misdemeanor violation of § **16.1-253.2**, **18.2-60.3**, **18.2-60.4**, **18.2-67.4**, **18.2-67.4:1**, **18.2-67.4:2**, **18.2-67.5**, **18.2-102**, **18.2-121**, **18.2-130**, **18.2-370.6**, **18.2-387**, *or* **18.2-387.1**, ~~or~~ **18.2-479.1** *subsection E of §* ***18.2-460*** shall have a sample of his blood, saliva or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If a sample has been previously taken from the person as indicated by the Local Inmate Data System (LIDS), no additional sample shall be taken. The Department of Forensic Science shall provide to LIDS the most current information submitted to the DNA data bank on a weekly basis and shall remove from LIDS and the data bank persons no longer eligible to be in the data bank. A fee of $53 shall be charged for the withdrawal of this sample. The fee shall be taxed as part of the costs of the criminal case resulting in the conviction and $15 of the fee shall be paid into the general fund of the locality where the sample was taken and $38 of the fee shall be paid into the general fund of the state treasury. This fee shall only be taxed one time regardless of the number of samples taken. The assessment provided for herein shall be in addition to any other fees prescribed by law. The analysis shall be performed by the Department of Forensic Science or other entity designated by the Department. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the Department in a DNA data bank and shall be made available only as provided in § **19.2-310.5**.

B. After July 1, 1990, the blood, saliva, or tissue sample shall be taken prior to release from custody. Notwithstanding the provisions of § **53.1-159**, any person convicted of an offense listed in subsection A who is in custody after July 1, 1990, shall provide a blood, saliva, or tissue sample prior to his release. Every person so convicted after July 1, 1990, who is not sentenced to a term of confinement shall provide a blood, saliva, or tissue sample as a condition of such sentence. A person required under this section to submit a sample for DNA analysis is not relieved from this requirement regardless of whether no blood, saliva, or tissue sample has been taken from the person or, if a sample has been taken, whether the sample or the results from the analysis of a sample cannot be found in the DNA data bank maintained by the Department of Forensic Science.

C. Nothing in this section shall prevent the Department of Forensic Science from including the identification characteristics of an individual's DNA profile in the DNA data bank as ordered by a circuit court pursuant to a lawful plea agreement.

D. A collection or placement of a sample for DNA analysis that was taken or retained in good faith does not invalidate the sample's use in the data bank pursuant to the provisions of this article. The detention, arrest, or conviction of a person based upon a data bank match or data bank information is not invalidated if it is determined that the sample was obtained, placed, or retained in the data bank in good faith, or if the conviction or juvenile adjudication that resulted in the collection of the DNA sample was subsequently vacated or otherwise altered in any future proceeding, including but not limited to post-trial or post-fact-finding motions, appeals, or collateral attacks.

E. The Virginia Department of Corrections and the Department of Forensic Science shall, on a quarterly basis, compare databases of offenders under the custody or supervision of the Department of Corrections with the DNA data bank of the Department of Forensic Science. The Virginia Department of Corrections shall require a DNA sample of those offenders under its custody or supervision if they are not identified in the DNA data bank.

F. The Department of State Police shall verify that a DNA sample required to be taken for the Sex Offender and Crimes Against Minors Registry pursuant to § **9.1-903** has been received by the Department of Forensic Science.

In any instance where a DNA sample has not been received, the Department of State Police or its designee shall obtain from the person required to register a sample for DNA analysis.

G. Each community-based probation services agency established pursuant to § **9.1-174** shall determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to this section and, if no sample has been taken, require an offender to submit a sample for DNA analysis.

H. The sheriff or regional jailer shall determine by reviewing the Local Inmate Data System upon intake and again prior to release whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to this section and, if no sample has been taken, require an offender to submit a sample for DNA analysis.

2. That § **18.2-479.1** of the Code of Virginia is repealed.

Report of arrests; fingerprints; trespass; disorderly conduct. Requires that a law-enforcement agency make a report of any arrest of a person for trespassing (§ 18.2-119) or disorderly conduct (§ 18.2-415) to the Central Criminal Records Exchange and that such report be accompanied by the fingerprints and photograph of the person arrested. Under current law, such a report is required for all other misdemeanors punishable by confinement in jail under Title 18.2 (Crimes and Offenses Generally). This bill is a recommendation of the Virginia State Crime Commission. This bill is identical to **SB 566.**

CHAPTER 51

*An Act to amend and reenact § **19.2-390** of the Code of Virginia, relating to report of arrests; fingerprints; trespass; disorderly conduct.*

[H 1266]
Approved February 26, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-390** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-390**. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on capias or warrant for failure to appear, and the service of a warrant for another jurisdiction, on any of the following charges:

a. Treason;

b. Any felony;

c. Any offense punishable as a misdemeanor under Title 54.1; or

d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, ~~except an arrest for a violation of § **18.2-119**, Article 2 (§ **18.2-415** et seq.) of Chapter 9 of Title 18.2,~~ or any similar ordinance of any county, city or town, (ii) under § **20-61**, or (iii) under § **16.1-253.2**.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database. Fingerprints and photographs required to be taken pursuant to this subsection or subdivision A 3c of § **19.2-123** may be taken at the facility where the magistrate is located, including a regional jail, even if the accused is not committed to jail.

2. For persons arrested and released on summonses in accordance with § **19.2-74**, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court dismisses the proceeding pursuant to

§ 18.2-251; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

B. Within 72 hours following the receipt of (i) a warrant or capias for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or capias may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or capias to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his post-release supervision or probation, the law-enforcement agency that received the written statement shall enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

C. The clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records Exchange of (i) any dismissal, indefinite postponement or continuance, charge still pending due to mental incompetency or incapacity, nolle prosequi, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A, including any action which may have resulted from an indictment, presentment or information, and (ii) any adjudication of delinquency based upon an act which, if committed by an adult, would require fingerprints to be filed pursuant to subsection A. In the case of offenses not required to be reported to the Exchange by subsection A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § 15.2-1722. Upon conviction of any person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or

adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § **19.2-76.1**, the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

D. In addition to those offenses enumerated in subsection A of this section, the Central Criminal Records Exchange may receive, classify and file any other fingerprints, photographs, and records of arrest or confinement submitted to it by any law-enforcement agency or any correctional institution.

E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining correctional status information, as required by the regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to or release or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

Confidentiality of victim telephone numbers and email addresses in criminal cases. Provides that upon request of a crime victim or a witness in a criminal prosecution of a violent felony, law enforcement, the attorney for the Commonwealth, counsel for a defendant, and the Department of Corrections are prohibited from disclosing any telephone number or email address of such victim or witness except to the extent that such disclosure is required by law, necessary for law-enforcement purposes, or permitted by the court. The bill also provides that during any criminal proceeding, upon motion of the defendant or the attorney for the Commonwealth, a judge may prohibit testimony as to any telephone number or email address of a victim or witness if the judge determines that this information is not material under the circumstances of the case. This bill is a recommendation of the Virginia State Crime Commission. This bill is identical to **SB 457.**

CHAPTER 47

An Act to amend and reenact §§ 19.2-11.01, 19.2-11.2, and 19.2-269.2 of the Code of Virginia, relating to confidentiality of victim telephone numbers and email addresses in criminal cases.

[H 840]

Approved February 26, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ **19.2-11.01**, **19.2-11.2**, and **19.2-269.2** of the Code of Virginia are amended and reenacted as follows:

§ **19.2-11.01**. Crime victim and witness rights.

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § **19.2-11.1**, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter, including verification that the standardized form listing the specific rights afforded to crime victims has been received by the victim.

As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § **40.1-28.7:2**.

1. Victim and witness protection and law-enforcement contacts.

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which may be available pursuant to § **52-35** or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

b. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation, and that does not place the victim in close proximity to the defendant or the defendant's family.

2. Financial assistance.

a. Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ **19.2-368.1**et seq.) of this title and on other available assistance and services.

b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with §§ **19.2-270.1** and **19.2-270.2**.

c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ **19.2-305**, **19.2-305.1**, Chapter 21.1 (§ **19.2-368.1** et seq.) of this title, Article 21 (§ **58.1-520** et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.

3. Notices.

a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § **18.2-465.1** it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.

b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § **19.2-265.01** if they have provided their names, current addresses and telephone numbers.

c. Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § **2.2-511**, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.

d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ **53.1-133.02** and **53.1-160** or (ii) when an accused is released on bail, if they have provided their names, current addresses and telephone numbers in writing. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims. Victims shall also be advised that any such information given shall be confidential as provided by § **19.2-11.2**.

f. Victims of sexual assault, as defined in § **19.2-11.5**, shall be advised of their rights regarding physical evidence recovery kits as provided in Chapter 1.2 (§ **19.2-11.5** et seq.).

4. Victim input.

a. Victims shall be given the opportunity, pursuant to § **19.2-299.1**, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ **16.1-273** and **53.1-155** or any other applicable law.

b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § **19.2-265.01**.

c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to §§ **19.2-264.4** and **19.2-295.3**, to testify prior to sentencing of a defendant regarding the impact of the offense.

d. In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, or change of address without notice.

Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court.

The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.

5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses ~~and~~, *any* telephone numbers, *and email addresses* may not be disclosed, pursuant to the provisions of §§ **19.2-11.2** and **19.2-269.2**, except when necessary for the conduct of the criminal proceeding.

b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ **19.2-164** and**19.2-164.1**.

c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with §**18.2-67.8** and, if a victim was 14 years of age or younger on the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § **18.2-67.9**.

6. Post trial assistance.

a. Within 30 days of receipt of a victim's written request after the final trial court proceeding in the case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the case, (ii) the crimes of which the defendant was convicted, (iii) the defendant's right to appeal, if known, and (iv) the telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had custody of the defendant immediately prior to his release shall notify the victim as soon as practicable that the defendant has been released.

c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if the first trial did not take place.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and battery in violation of § **18.2-57** or **18.2-57.2**, stalking in violation of § **18.2-60.3**, a violation of a protective order in violation of § **16.1-253.2** or **18.2-60.4**, sexual battery in violation of § **18.2-67.4**, attempted sexual battery in violation of § **18.2-67.5**, or maiming or driving while intoxicated in violation of § **18.2-51.4** or **18.2-266**, or (c) a delinquent act that would be a felony or a misdemeanor violation of any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person; (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4 only, a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor's life; or (v) a spouse, parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

§ **19.2-11.2**. Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege.

Upon request of any witness in a criminal prosecution under § 1**8.2-46.2**, **18.2-46.3**, or **18.2-248** or of any violent felony as defined by subsection C of § **17.1-805**, or any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, *any* telephone number, *email address,* or place of employment of the witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause.

Except with the written consent of the victim of any crime involving any sexual assault, sexual abuse, or family abuse or the victim's next of kin if the victim is a minor and the victim's death results from any crime, a law-enforcement agency may not disclose to the public information that directly or indirectly identifies the victim of such crime except to the extent that disclosure is (a) of the site of the crime, (b) required by law, (c) necessary for law-enforcement purposes, or (d) permitted by the court for good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or sexual abuse, no appellate decision shall contain the first or last name of the victim.

Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding.

§ **19.2-269.2**. Nondisclosure of addresses or telephone numbers of crime victims and witnesses.

During any criminal proceeding, upon motion of the defendant or the attorney for the Commonwealth, a judge may prohibit testimony as to the current residential or business address ~~or~~, *any* telephone number, *or email address* of a victim or witness if the judge determines that this information is not material under the circumstances of the case.

CBD oil and THC-A oil; certification for use; dispensing. Provides that a practitioner may issue a written certification for the use of cannabidiol (CBD) oil or THC-A oil for the treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. Under current law, a practitioner may only issue such certification for the treatment or to alleviate the symptoms of intractable epilepsy. The bill increases the supply of CBD oil or THC-A oil a pharmaceutical processor may dispense from a 30-day supply to a 90-day supply. The bill reduces the minimum amount of cannabidiol or tetrahydrocannabinol acid per milliliter for a dilution of the Cannabis plant to fall under the definition of CBD oil or THC-A oil, respectively. As introduced, this bill was a recommendation of the Joint Commission on Health Care. The bill contains an emergency clause. This bill is identical to **SB 726.**

CHAPTER 246

*An Act to amend and reenact §§ **18.2-250.1**, **54.1-3408.3**, **54.1-3442.5**, and **54.1-3442.7** of the Code of Virginia, relating to certification for use of cannabidiol oil or THC-A oil.*

[H 1251]

Approved March 9, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-250.1**, **54.1-3408.3**, **54.1-3442.5**, and **54.1-3442.7** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-250.1**. Possession of marijuana unlawful.

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ **54.1-3400** et seq.).

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is guilty of a misdemeanor and shall be confined in jail not more than 30 days and fined not more than $500, either or both; any person, upon a second or subsequent conviction of a violation of this section, is guilty of a Class 1 misdemeanor.

B. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § **53.1-1**, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

C. In any prosecution under this section involving marijuana in the form of cannabidiol oil or THC-A oil as those terms are defined in §**54.1-3408.3**, it shall be an affirmative defense that the individual possessed such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § **54.1-3408.3** for treatment or to alleviate the symptoms of (i) the individual's ~~intractable epilepsy~~ *diagnosed condition or disease* or (ii) if such individual is the parent or legal guardian of a minor or of an incapacitated adult as defined in § **18.2-369**, such minor's or incapacitated adult's ~~intractable epilepsy~~ *diagnosed condition or disease*. If the individual files the valid written certification with the court at least 10 days prior to trial and causes a copy of such written certification to be delivered to the attorney for the Commonwealth, such written certification shall be prima facie evidence that such oil was possessed pursuant to a valid written certification.

§ **54.1-3408.3**. Certification for use of cannabidiol oil or THC-A oil for treatment.

A. As used in this section:

"Cannabidiol oil" means a processed Cannabis plant extract that contains at least 15 percent cannabidiol but no more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least ~~50~~ *five* milligrams of cannabidiol per milliliter but not more than five percent tetrahydrocannabinol.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine ~~who is a neurologist or who specializes in the treatment of epilepsy~~.

"THC-A oil" means a processed Cannabis plant extract that contains at least 15 percent tetrahydrocannabinol acid but not more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least ~~50~~ *five* milligrams of tetrahydrocannabinol acid per milliliter but not more than five percent tetrahydrocannabinol.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabidiol oil or THC-A oil for treatment or to alleviate the symptoms of ~~a patient's intractable epilepsy~~ *any diagnosed condition or disease determined by the practitioner to benefit from such use*.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § **18.2-248** or **18.2-248.1** for dispensing or distributing cannabidiol oil or THC-A oil for the treatment or to alleviate the symptoms of a patient's ~~intractable epilepsy~~ *diagnosed condition or disease* pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § **18.2-369**, a patient's parent or legal guardian shall register and shall register such patient with the Board.

G. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, and, if such patient is a minor or an incapacitated adult as defined in § **18.2-369**, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in

an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

H. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ **2.2-3700** et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed physicians or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor involved in the treatment of a registered patient, or (v) a registered patient or, if such patient is a minor or an incapacitated adult as defined in § **18.2-369**, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

§ **54.1-3442.5**. Definitions.

As used in this article:

"Cannabidiol oil" has the same meaning as specified in § **54.1-3408.3**.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § **54.1-3408.3** and (ii) cultivates Cannabis plants intended only for the production of cannabidiol oil or THC-A oil, produces cannabidiol oil or THC-A oil, and dispenses cannabidiol oil or THC-A oil to a registered patient or, if such patient is a minor or an incapacitated adult as defined in § **18.2-369**, such patient's parent or legal guardian ~~for the treatment of intractable epilepsy~~.

"Practitioner" has the same meaning as specified in § **54.1-3408.3**.

"THC-A oil" has the same meaning as specified in § **54.1-3408.3**.

§ **54.1-3442.7**. Dispensing cannabidiol oil and THC-A oil; report.

A. A pharmaceutical processor shall dispense or deliver cannabidiol oil or THC-A oil only in person to (i) a patient who is a Virginia resident, has been issued a valid written certification, and is registered with the Board pursuant to § **54.1-3408.3** or (ii) if such patient is a minor or an incapacitated adult as defined in § **18.2-369**, such patient's parent or legal guardian who is a Virginia resident and is registered with the Board pursuant to § **54.1-3408.3**. Prior to dispensing, the pharmaceutical processor shall verify that the practitioner issuing the written certification, the patient, and, if such patient is a minor or an incapacitated adult, the patient's parent or legal guardian are registered with the Board. No pharmaceutical processor shall dispense more than a ~~30-day~~ *90-day* supply for any patient during any ~~30-day~~ *90-day* period. The Board shall establish in regulation an amount of cannabidiol oil or THC-A oil that constitutes a ~~30-day~~ *90-day*supply to treat or alleviate the symptoms of a patient's ~~intractable epilepsy~~ *diagnosed condition or disease*.

B. A pharmaceutical processor shall dispense only cannabidiol oil and THC-A oil that has been cultivated and produced on the premises of such pharmaceutical processor.

C. The Board shall report annually by December 1 to the Chairmen of the House and Senate Committees for Courts of Justice on the operation of pharmaceutical processors issued a permit by the Board, including the

number of practitioners, patients, and parents or legal guardians of patients who have registered with the Board and the number of written certifications issued pursuant to § **54.1-3408.3**.

2. That an emergency exists and this act is in force from its passage.

Schedule I controlled substances. Adds drugs to the list of Schedule I controlled substances.

CHAPTER 372

*An Act to amend and reenact § **54.1-3446** of the Code of Virginia, relating to Schedule I controlled substances.*

[H 1194]

Approved March 19, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **54.1-3446** of the Code of Virginia is amended and reenacted as follows:

§ **54.1-3446**. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

3,4-dichloro-N-{[1-(dimethylamino)cyclohexyl]methyl}benzamide (other name: AH-7921);

Acetyl fentanyl (other name: desmethyl fentanyl);

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetylbutyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxeridine;

Furethidine;

Hydroxypethidine;

Ketobemidone;

Levomoramide;

Levophenacylmorphan;

Morpheridine;

N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);

N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranyl fentanyl);

N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);

N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);

N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);

N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);

N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);

N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-fluorofentanyl, ortho-fluorofentanyl);

N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);

N-[3-methyl-1-(2-hydroxy-2-phenylethyl)4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl);

N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);

N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);

N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluoroisobutyryl fentanyl);

N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutyrylfentanyl);

N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);

Noracymethadol;

Norlevorphanol;

Normethadone;

Norpipanone;

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-propenamide (other name: Acryl fentanyl);

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);

N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);

N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);

Phenadoxone;

Phenampromide;

Phenomorphan;

Phenoperidine;

Piritramide;

Proheptazine;

Properidine;

Propiram;

Racemoramide;

Tilidine;

Trimeperidine.

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;

Acetyldihydrocodeine;

Benzylmorphine;

Codeine methylbromide;

Codeine-N-Oxide;

Cyprenorphine;

Desomorphine;

Dihydromorphine;

Drotebanol;

Etorphine;

Heroin;

Hydromorphinol;

Methyldesorphine;

Methyldihydromorphine;

Morphine methylbromide;

Morphine methylsulfonate;

Morphine-N-Oxide;

Myrophine;

Nicocodeine;

Nicomorphine;

Normorphine;

Pholcodine;

Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);

3,4-methylenedioxypyrovalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC);

3,4-methylenedioxymethcathinone (other name: methylone);

Naphthylpyrovalerone (other name: naphyrone);

4-fluoromethcathinone (other name: flephedrone, 4-FMC);

4-methoxymethcathinone (other names: methedrone; bk-PMMA);

Ethcathinone (other name: N-ethylcathinone);

3,4-methylenedioxyethcathinone (other name: ethylone);

Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);

N,N-dimethylcathinone (other name: metamfepramone);

Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);

4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);

3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);

Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);

6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);

3-fluoromethcathinone (other name: 3-FMC);

4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);

4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);

4-Methylethcathinone (other name: 4-MEC);

4-Ethylmethcathinone (other name: 4-EMC);

N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);

Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);

Alpha-methylamino-butyrophenone (other name: Buphedrone);

Alpha-methylamino-valerophenone (other name: Pentedrone);

3,4-Dimethylmethcathinone (other name: 3.4-DMMC);

4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);

4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);

Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);

4-Fluoromethamphetamine (other name: 4-FMA);

4-Fluoroamphetamine (other name: 4-FA);

2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);

2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);

2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);

2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);

2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);

2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);

2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);

(2-aminopropyl)benzofuran (other name: APB);

(2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);

4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);

4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);

Acetoxydimethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);

Benocyclidine (other names: BCP, BTCP);

Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);

3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);

4-bromomethcathinone (other name: 4-BMC);

4-chloromethcathinone (other name: 4-CMC);

4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);

Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);

Alpha-Pyrrolidinoheptiophenone (other name: PV8);

5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);

Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);

1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);

1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);

1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);

4-Chloroethcathinone (other name: 4-CEC);

3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);

1-propionyl lysergic acid diethylamide (other name: 1P-LSD);

(2-Methylaminopropyl)benzofuran (other name: MAPB)*;*

1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);

1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9)
3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);

4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);

4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);

4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);

4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);

4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);

4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);

4-methyl-alpha-ethylaminopentiophenone;

4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);

5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);

5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);

6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);

6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);

(N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

Clonazolam;

Etizolam;

Flubromazepam;

Flubromazolam;

Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Mecloqualone;

Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);

Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine);

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

Ethylamphetamine;

Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);

Fenethylline;

Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)-propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N, N-alpha-trimethylphenethylamine).

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-terahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);

1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);

N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);

N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);

1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);

(8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);

(8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);

(8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);

1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);

Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);

1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);

1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);

1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);

N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)met hyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);

Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);

Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA;

Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other names: AMB-FUBINACA, FUB-AMB);

N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48)

N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);

Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole -3-carboxamide (other name: AB-CHMICA);

1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);

Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);

Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-ADB-PINACA).

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4**, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Return of search warrants to jurisdiction where executed. Provides that return made on search warrants for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service shall be made in the circuit court clerk's office for the jurisdiction where the warrant was executed, if executed within the Commonwealth, or issued, if executed outside the Commonwealth. Currently, the return on such warrants is made in the circuit court clerk's office for the jurisdiction where the warrant was executed. The bill also provides that a copy of the return shall be delivered to the clerk of the circuit court where the warrant was issued if the warrant was executed within the Commonwealth.

CHAPTER 410

*An Act to amend and reenact § **19.2-56** of the Code of Virginia, relating to return of search warrants to jurisdiction where executed.*

[H 1164]
Approved March 23, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-56** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-56**. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.

The judge, magistrate or other official authorized to issue criminal warrants, shall issue a search warrant if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed to (i) the sheriff, sergeant, or any policeman of the county, city or town in which the place to be searched is located, (ii) any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police, or (iii) jointly to any such sheriff, sergeant, policeman or law-enforcement officer or agent and an agent, special agent or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official or police personnel of the United States Postal Service, or the Drug Enforcement Administration. The warrant shall (a) name the affiant, (b) recite the offense or the identity of the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the search is to be made, (c) name or describe the place to be searched, (d) describe the property or person to be searched for, and (e) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime or that the person to be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched.

The warrant shall command that the place be forthwith searched, either in day or night, and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense or over the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the warrant was issued as provided in § **19.2-57**.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer or agent into whose hands it is delivered. No other person may be permitted to be present during or

participate in the execution of a warrant to search a place except (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or ~~without~~ *outside* the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § **19.2-57**, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was *(A) executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to the clerk of the circuit court of the county or city where the warrant was issued; or (B)* issued*, if executed outside the Commonwealth*. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § **19.2-70.3** using the same process described in the preceding paragraph.

Notwithstanding the provisions of § **19.2-57**, any search warrant for records or other information pertaining to a customer of a financial institution as defined in § **6.2-604**, money transmitter as defined in § **6.2-1900**, commercial business providing credit history or credit reports, or issuer as defined in § **6.2-424** may be executed within the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located.

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § **19.2-54**, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § **19.2-54**.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § **13.1-759** to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § **13.1-775**.

DNA analysis upon conviction of certain misdemeanors. Adds misdemeanor violations of §§ 18.2-57 (assault and battery) and 18.2-119 (trespass) to the list of offenses for which an adult convicted of such offense must have a sample of his blood, saliva, or tissue taken for DNA analysis. As introduced, this bill was a recommendation of the Virginia Crime Commission. This bill is identical to **SB 565.**

CHAPTER 543

An Act to amend and reenact § 19.2-310.2 of the Code of Virginia, relating to DNA analysis upon conviction of certain misdemeanors.

[H 1249]

Approved March 30, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-310.2** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-310.2**. Blood, saliva, or tissue sample required for DNA analysis upon conviction of certain crimes; fee.

A. Every person convicted of a felony on or after July 1, 1990, every person convicted of a felony offense under Article 7 (§ **18.2-61** et seq.) of Chapter 4 of Title 18.2 who was incarcerated on July 1, 1989, and every person convicted of a misdemeanor violation of § **16.1-253.2**, ***18.2-57***, **18.2-60.3**, **18.2-60.4**, **18.2-67.4**, **18.2-67.4:1**, **18.2-67.4:2**, **18.2-67.5**, **18.2-102**, ***18.2-119***, **18.2-121**, **18.2-130**, **18.2-370.6**, **18.2-387**, **18.2-387.1**, or **18.2-479.1** shall have a sample of his blood, saliva or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If a sample has been previously taken from the person as indicated by the Local Inmate Data System (LIDS), no additional sample shall be taken. The Department of Forensic Science shall provide to LIDS the most current information submitted to the DNA data bank on a weekly basis and shall remove from LIDS and the data bank persons no longer eligible to be in the data bank. A fee of $53 shall be charged for the withdrawal of this sample. The fee shall be taxed as part of the costs of the criminal case resulting in the conviction and $15 of the fee shall be paid into the general fund of the locality where the sample was taken and $38 of the fee shall be paid into the general fund of the state treasury. This fee shall only be taxed one time regardless of the number of samples taken. The assessment provided for herein shall be in addition to any other fees prescribed by law. The analysis shall be performed by the Department of Forensic Science or other entity designated by the Department. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the Department in a DNA data bank and shall be made available only as provided in § **19.2-310.5**.

B. After July 1, 1990, the blood, saliva, or tissue sample shall be taken prior to release from custody. Notwithstanding the provisions of § **53.1-159**, any person convicted of an offense listed in subsection A who is in custody after July 1, 1990, shall provide a blood, saliva, or tissue sample prior to his release. Every person so convicted after July 1, 1990, who is not sentenced to a term of confinement shall provide a blood, saliva, or tissue sample as a condition of such sentence. A person required under this section to submit a sample for DNA analysis is not relieved from this requirement regardless of whether no blood, saliva, or tissue sample has been taken from the person or, if a sample has been taken, whether the sample or the results from the analysis of a sample cannot be found in the DNA data bank maintained by the Department of Forensic Science.

C. Nothing in this section shall prevent the Department of Forensic Science from including the identification characteristics of an individual's DNA profile in the DNA data bank as ordered by a circuit court pursuant to a lawful plea agreement.

D. A collection or placement of a sample for DNA analysis that was taken or retained in good faith does not invalidate the sample's use in the data bank pursuant to the provisions of this article. The detention, arrest, or conviction of a person based upon a data bank match or data bank information is not invalidated if it is determined that the sample was obtained, placed, or retained in the data bank in good faith, or if the conviction or juvenile adjudication that resulted in the collection of the DNA sample was subsequently vacated or otherwise altered in any future proceeding, including but not limited to post-trial or post-fact-finding motions, appeals, or collateral attacks.

E. The Virginia Department of Corrections and the Department of Forensic Science shall, on a quarterly basis, compare databases of offenders under the custody or supervision of the Department of Corrections with the DNA data bank of the Department of Forensic Science. The Virginia Department of Corrections shall require a DNA sample of those offenders under its custody or supervision if they are not identified in the DNA data bank.

F. The Department of State Police shall verify that a DNA sample required to be taken for the Sex Offender and Crimes Against Minors Registry pursuant to § **9.1-903** has been received by the Department of Forensic Science. In any instance where a DNA sample has not been received, the Department of State Police or its designee shall obtain from the person required to register a sample for DNA analysis.

G. Each community-based probation services agency established pursuant to § **9.1-174** shall determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to this section and, if no sample has been taken, require an offender to submit a sample for DNA analysis.

H. The sheriff or regional jailer shall determine by reviewing the Local Inmate Data System upon intake and again prior to release whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to this section and, if no sample has been taken, require an offender to submit a sample for DNA analysis.

Physical evidence recovery kits; submission to Department of Forensic Science. Adds as an exception to the requirement that a law-enforcement agency that receives a physical evidence recovery kit submit such kit to the Department for Forensic Science for analysis within 60 days of receipt the circumstance of another law-enforcement agency having taken over responsibility for the investigation related to such kit.

CHAPTER 398

*An Act to amend and reenact § **19.2-11.8** of the Code of Virginia, relating to physical evidence recovery kits; submission to Department of Forensic Science.*

[H 303]

Approved March 23, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-11.8** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-11.8**. Submission of physical evidence recovery kits to the Department.

A. A law-enforcement agency that receives a physical evidence recovery kit shall submit the physical evidence recovery kit to the Department for analysis within 60 days of receipt, except under the following circumstances: (i) it is an anonymous physical evidence recovery kit that shall be forwarded to the Division for storage; (ii) the physical evidence recovery kit was collected by the Office of the Chief Medical Examiner as part of a routine death investigation, and the medical examiner and the law-enforcement agency agree that analysis is not warranted; (iii) the physical evidence recovery kit is connected to an offense that occurred outside of the Commonwealth;~~or~~ (iv) the physical evidence recovery kit was determined by the law-enforcement agency not to be connected to a criminal offense*; or (v) another law-enforcement agency has taken over responsibility for the investigation related to the physical evidence recovery kit*.

B. Upon completion of analysis, the Department shall return the physical evidence recovery kit to the submitting law-enforcement agency. Upon receipt of the physical evidence recovery kit from the Department, the law-enforcement agency shall store the physical evidence recovery kit for a period of 10 years or until 10 years after the victim reaches the age of majority if the victim was a minor at the time of collection, whichever is longer. The law-enforcement agency shall store the physical evidence recovery kit for a period of 10 years following the receipt of a written objection to the destruction of the kit from the victim. After the mandatory retention period or any additional 10-year storage period has lapsed, the law-enforcement agency shall, unless the victim has made a written request not to be contacted for this purpose, make a reasonable effort to notify the victim of the intended destruction of the physical evidence recovery kit no less than 60 days prior to the intended date of such destruction. In the absence of a response from the victim, or with the consent of the victim, the law-enforcement agency may destroy the physical evidence recovery kit or, in its discretion, may elect to retain the physical evidence recovery kit for a longer period of time.

C. The DNA profiles developed from physical evidence recovery kits submitted to the Department for analysis pursuant to this section shall be uploaded into any local, state, or national DNA data bank only if eligible as determined by Department procedures and in accordance with state and federal law.

Trespass; unmanned aircraft system; penalty. Provides that any person who knowingly and intentionally causes an unmanned aircraft system to enter the property of another and come within 50 feet of a dwelling house (i) to coerce, intimidate, or harass another person or (ii) after having been given notice to desist, for any other reason, is guilty of a Class 1 misdemeanor. The bill also provides that any person who is required to register with the Sex Offender and Crimes Against Minors Registry who uses or operates an unmanned aircraft system to knowingly and intentionally (a) follow or contact another person without such person's permission or (b) capture images of another person without such person's permission when such images render the person recognizable is guilty of a Class 1 misdemeanor. Additionally, any respondent of a permanent protective order who uses or operates an unmanned aircraft system to knowingly and intentionally follow, contact, or capture images of any individual named in the protective order is guilty of a Class 1 misdemeanor. The bill also repeals the expiration of the prohibition on local regulation of privately owned, unmanned aircraft systems, clarifies the scope of such prohibition, and clarifies that such prohibition extends to all political subdivisions and not only to localities. This bill is identical to SB 526.

VIRGINIA ACTS OF ASSEMBLY -- CHAPTER

An Act to amend and reenact § 15.2-926.3 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 18.2-121.3 and by adding in Article 8 of Chapter 7 of Title 18.2 a section numbered 18.2-324.2, and to repeal the second enactment of Chapter 451 of the Acts of Assembly of 2016, relating to trespass; unmanned aircraft system; penalty.

[H 638]
Approved

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-926.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-121.3 and by adding in Article 8 of Chapter 7 of Title 18.2 a section numbered 18.2-324.2 as follows:

§ 15.2-926.3. (Expires July 1, 2019) Local regulation of certain aircraft.

No ~~locality~~ *political subdivision* may regulate the use of a privately owned, unmanned aircraft system as defined in § 19.2-60.1 within its boundaries. *Nothing in this section shall permit a person to go or enter upon land owned by a political subdivision solely because he is in possession of an unmanned aircraft system if he would not otherwise be permitted entry upon such land.*

§ 18.2-121.3. Trespass with an unmanned aircraft system; penalty.

A. Any person who knowingly and intentionally causes an unmanned aircraft system to enter the property of another and come within 50 feet of a dwelling house (i) to coerce, intimidate, or harass another person or (ii) after having been given actual notice to desist, for any other reason, is guilty of a Class 1 misdemeanor.

B. This section shall not apply to any person who causes an unmanned aircraft system to enter the property as set forth in subsection A if (i) consent is given to the entry by any person with legal authority to consent or by any person who is lawfully present on such property or (ii) such person is authorized by federal regulations to operate an unmanned aircraft system and is operating such system in an otherwise lawful manner and consistent with federal regulations.

§ 18.2-324.2. Use of unmanned aircraft system for certain purposes; penalty.

A. It is unlawful for any person who is required to register pursuant to § 9.1-901 to use or operate an unmanned aircraft system to knowingly and intentionally (i) follow or contact another person without permission of such person or (ii) capture the images of another person without permission of such person when such images render the person recognizable by his face, likeness, or other distinguishing characteristic.

B. It is unlawful for a respondent of a protective order issued pursuant to § 16.1-279.1 or 19.2-152.10 to knowingly and intentionally use or operate an unmanned aircraft system to follow, contact, or capture images of the petitioner of the protective order or any other individual named in the protective order.

C. A violation of this section is a Class 1 misdemeanor.

2. That the second enactment of Chapter 451 of the Acts of Assembly of 2016 is repealed.

3. That the Secretary of Commerce and Trade, in consultation with the Virginia Economic Development Partnership, shall study the impact of this act on unmanned aircraft research, innovation, and economic development in Virginia and report to the Governor and General Assembly no later than November 1, 2019.

CRIMINAL – SUMMARY ONLY

HB326 – §16.1-243 – Child abuse and neglect; venue. Provides that, for cases in juvenile and domestic relations district court involving an allegedly abused or neglected child, venue may lie in the city or county where the alleged abuse or neglect occurred in addition to the city or county where the child resides or where the child is present when the proceedings are commenced.

HB145 and SB475 – §19.2-56.2 – Search warrant for a tracking device; delivery of affidavit. Provides that an affidavit for a search warrant authorizing use of a tracking device may be delivered by a judicial officer's designee or agent. Current law requires the affidavit to be delivered by the judicial officer. As introduced, this bill was a recommendation of the Judicial Council of Virginia. This bill is identical to **SB 475.**

HB842 – §54.1-3466 and 54.1-3467 – Possession or distribution of controlled paraphernalia; hypodermic needles and syringes; naloxone. Provides that a person who is authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy may dispense or distribute hypodermic needles and syringes in conjunction with such dispensing of naloxone and that a person to whom naloxone has been distributed by such individual may possess hypodermic needles and syringes in conjunction with such possession of naloxone. The bill also allows the dispensing or distributing of hypodermic needles and syringes by persons authorized to dispense naloxone. The bill contains an emergency clause.

HB77 – §16.1-69.8, 16.1-69.31, 16.1-69.46, 17.1-515.1, 19.2-45, and 19.2-244 – Venue in criminal cases; concurrent jurisdiction; obsolete provisions. Provides that the courts of a locality have concurrent jurisdiction with the courts of any other adjoining locality over criminal offenses committed in or upon the premises, buildings, rooms, or offices owned or occupied by such locality or any officer, agency, or department thereof that are located in the adjoining locality and repeals an existing statute that provides such concurrent jurisdiction for certain enumerated localities. The bill also deletes references to corporation courts, which no longer exist, and repeals several obsolete provisions involving courts not of record that ceased to be applicable in 1980. This bill is a recommendation of the Virginia Code Commission.

HB292 – §16.1-260, 19.2-83.1, and 22.1-279.3:1 – Reports to school division superintendents; abduction. Adds abduction to the list of offenses that are reported to school division superintendents by a juvenile intake officer when a petition is filed alleging a student committed such offense. The bill also adds abduction and acts of violence by mobs to the list of offenses reported to school division superintendents by a law-enforcement officer when a student who is 18 years of age or older is arrested for committing such an offense; acts of violence by mobs is already on the list reported by an intake officer for a minor student. The bill also adds abduction on school property, on a school bus, or at a school-sponsored activity to the list of incidents to be reported to school division superintendents and principals.

HB188 and SB35 – §19.2-303.01 – Sentence reduction; substantial assistance to prosecution. Allows a convicted person's sentence to be reduced if such person provides substantial assistance, defined in the bill, in the furtherance of the investigation or prosecution of another person engaged in an act of violence or for offenses involving the manufacture or distribution of controlled substances or marijuana. Sentence reduction can occur only upon motion of the attorney for the Commonwealth. This bill incorporates **HB 203** and is identical to **SB 35.**

SB47 – §18.2-51.7 and 19.2-8 – Female genital mutilation; criminal penalty. Increases from a Class 1 misdemeanor to a Class 2 felony the penalty for any person to knowingly circumcise, excise, or infibulate the labia majora, labia minora, or clitoris of a minor; for any parent or guardian charged with the care of a minor to consent to such circumcision, excision, or infibulation; or for any parent or guardian charged with the care of a minor to knowingly remove or cause or permit the removal of such minor from the Commonwealth for the purposes of performing such circumcision, excision, or infibulation.

FIREARMS – FULL TEXT

Involuntary mental health treatment; minors; access to firearms. Provides that a person who, while a minor 14 years of age or older, was ordered to involuntary inpatient or outpatient treatment or was subject to a temporary detention order and agreed to voluntary admission (i) is subject to the same restrictions on possessing, purchasing, or transporting a firearm as an adult who was similarly ordered to involuntary treatment or was subject to a temporary detention order and agreed to voluntary admission and (ii) may utilize the same procedure as such adult for petitioning for the restoration of such person's firearm rights. The bill also sets out procedures for the submission of any involuntary treatment order or certification of voluntary admission subsequent to a temporary detention order involving a minor 14 years of age or older to the Central Criminal Records Exchange for purposes of determining a person's eligibility to possess, purchase, or transport a firearm that mirror the current procedures for the submission of such orders or certifications for adults. The bill contains an emergency clause.

CHAPTER 846

*An Act to amend and reenact §§ **16.1-337**, **16.1-344**, and **18.2-308.1:3** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **16.1-337.1**, relating to involuntary mental health treatment; minors; access to firearms.*

[S 669]
Approved April 18, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ **16.1-337**, **16.1-344**, and **18.2-308.1:3** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered **16.1-337.1** as follows:

§ **16.1-337**. Inpatient treatment of minors; general applicability; disclosure of records.

A. A minor may be admitted to a mental health facility for inpatient treatment only pursuant to § **16.1-338**, **16.1-339**, or **16.1-340.1** or in accordance with an order of involuntary commitment entered pursuant to §§ **16.1-341** through **16.1-345**. The provisions of Article 12 (§ **16.1-299** et seq.) of Chapter 11~~ of this title~~ *and § **16.1-337.1*** relating to the confidentiality of files, papers, and records shall apply to proceedings under this article.

B. Any health care provider, as defined in § **32.1-127.1:03**, or other provider rendering services to a minor who is the subject of proceedings under this article, upon request, shall disclose to a magistrate, the juvenile intake officer, the court, the minor's attorney, the minor's guardian ad litem, the qualified evaluator performing the evaluation required under §§ **16.1-338**, **16.1-339**, and **16.1-342**, the community services board or its designee performing the evaluation, preadmission screening, or monitoring duties under this article, or a law-enforcement officer any and all information that is necessary and appropriate to enable each of them to perform his duties under this article. These health care providers and other service providers shall disclose to one another health records and information where necessary to provide care and treatment to the person and to monitor that care and treatment. Health records disclosed to a law-enforcement officer shall be limited to information necessary to protect the officer, the minor, or the public from physical injury or to address the health care needs of the minor. Information disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or retained.

Any health care provider providing services to a minor who is the subject of proceedings under this article shall make a reasonable attempt to notify the minor's parent of information that is directly relevant to such individual's involvement with the minor's health care, which may include the minor's location and general condition, in accordance with subdivision D 34 of § **32.1-127.1:03**, unless the provider has actual knowledge that the parent is

currently prohibited by court order from contacting the minor. No health care provider shall be required to notify a person's family member or personal representative pursuant to this section if the health care provider has actual knowledge that such notice has been provided.

Any health care provider disclosing records pursuant to this section shall be immune from civil liability for any harm resulting from the disclosure, including any liability under the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as amended, unless the person or provider disclosing such records intended the harm or acted in bad faith.

C. Any order entered where a minor is the subject of proceedings under this article shall provide for the disclosure of health records pursuant to subsection B. This subsection shall not preclude any other disclosures as required or permitted by law.

*§ **16.1-337.1**. Order of involuntary commitment or mandatory outpatient treatment forwarded to Central Criminal Records Exchange; certain voluntary admissions forwarded to Central Criminal Records Exchange; firearm background check.*

*A. The order from a commitment hearing issued pursuant to this article for involuntary admission or mandatory outpatient treatment for a minor 14 years of age or older and the certification of any minor 14 years of age or older who has been the subject of a temporary detention order pursuant to § **16.1-340.1** and who, after being advised by the court that he will be prohibited from possessing a firearm pursuant to § **18.2-308.1:3**, subsequently agreed to voluntary admission pursuant to § **16.1-338** shall be filed by the court with the clerk of the juvenile and domestic relations district court for the county or city where the hearing took place as soon as practicable but no later than the close of business on the next business day following the completion of the hearing.*

B. Upon receipt of any order from a commitment hearing issued pursuant to this article for involuntary admission of a minor 14 years of age or older to a facility, the clerk of court shall, as soon as practicable but no later than the close of business on the next following business day, certify and forward to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of the order. Upon receipt of any order from a commitment hearing issued pursuant to this article for mandatory outpatient treatment of a minor 14 years of age or older, the clerk of court shall, prior to the close of that business day, certify and forward to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of the order.

*C. The clerk of court shall also, as soon as practicable but no later than the close of business on the next following business day, forward upon receipt to the Central Criminal Records Exchange, on a form provided by the Exchange, certification of any minor 14 years of age or older who has been the subject of a temporary detention order pursuant to § **16.1-340.1** and who, after being advised by the court that he will be prohibited from possessing a firearm pursuant to § **18.2-308.1:3**, subsequently agreed to voluntary admission pursuant to § **16.1-338**.*

*D. Except as provided in subdivision A 1 of § **19.2-389**, the copy of the forms and orders sent to the Central Criminal Records Exchange pursuant to subsection B, and the forms and certifications sent to the Central Criminal Records Exchange regarding voluntary admission pursuant to subsection C, shall be kept confidential in a separate file and used only to determine a person's eligibility to possess, purchase, or transfer a firearm. No medical records shall be forwarded to the Central Criminal Records Exchange with any form, order, or certification required by subsection B or C. The Department of State Police shall forward only a person's*

eligibility to possess, purchase, or transfer a firearm to the National Instant Criminal Background Check System.

§ **16.1-344**. Involuntary commitment; hearing.

A. The court shall summon to the hearing all material witnesses requested by either the minor or the petitioner. All testimony shall be under oath. The rules of evidence shall apply. The petitioner, minor and, with leave of court for good cause shown, any other person shall be given the opportunity to present evidence and cross-examine witnesses. The hearing shall be closed to the public unless the minor and petitioner request that it be open.

B. At the commencement of the hearing involving a minor 14 years of age or older, the court shall inform the minor whose involuntary commitment is being sought of his right to be voluntarily admitted for inpatient treatment as provided for in § **16.1-338** and shall afford the minor an opportunity for voluntary admission, provided that the minor's parent consents to such voluntary admission. *The court shall advise the minor whose involuntary commitment is being sought that if the minor chooses to be voluntarily admitted pursuant to § **16.1-338**, such minor will be prohibited from possessing, purchasing, or transporting a firearm pursuant to § **18.2-308.1:3***. In determining whether a minor is capable of consenting to voluntary admission, the court may consider evidence regarding the minor's past compliance or noncompliance with treatment.

C. An employee or a designee of the community services board that arranged for the evaluation of the minor shall attend the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § **16.1-345.1**. If (i) the minor does not reside in the jurisdiction served by the juvenile and domestic relations district court that conducts the hearing and (ii) the minor is being considered for mandatory outpatient treatment pursuant to § **16.1-345.2**, an employee or designee of the community services board serving the area where the minor resides shall also attend the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § **16.1-345.1**. The employee or designee of the community services board serving the area where the minor resides may, instead of attending the hearing, make arrangements with the community services board that arranged for the evaluation of the minor to present on its behalf the recommendations for a specific course of treatment and programs for the provision of mandatory outpatient treatment required by subsection C of § **16.1-345.2** and the initial mandatory outpatient treatment plan required by subsection D of § **16.1-345.2**. When a community services board attends the hearing on behalf of the community services board serving the area where the minor resides, the attending community services board shall inform the community services board serving the area where the minor resides of the disposition of the matter upon the conclusion of the hearing. In addition, the attending community services board shall transmit the disposition through certified mail, personal delivery, facsimile with return receipt acknowledged, or other electronic means to the community services board serving the area where the minor resides. Any employee or designee of the community services board attending or participating in the hearing shall not be excluded from the hearing pursuant to an order of sequestration of witnesses.

At least 12 hours prior to the hearing, the court shall provide the time and location of the hearing to the community services board that arranged for the evaluation of the minor. If the community services board will be present by telephonic means, the court shall provide the telephone number to the board.

§ **18.2-308.1:3**. Purchase, possession, or transportation of firearm by persons involuntarily admitted or ordered to outpatient treatment; penalty.

A. It shall be unlawful for any person *(i)* involuntarily admitted to a facility or ordered to mandatory outpatient treatment pursuant to § **19.2-169.2**, *(ii)* involuntarily admitted to a facility or ordered to mandatory outpatient treatment as the result of a commitment hearing pursuant to Article 5 (§ **37.2-814** et seq.) of Chapter 8 of Title 37.2,~~ or~~ *(iii) involuntarily admitted to a facility or ordered to mandatory outpatient treatment as a minor 14 years of age or older as the result of a commitment hearing pursuant to Article 16 (§ **16.1-335** et seq.) of Chapter 11 of Title 16.1, (iv)* who was the subject of a temporary detention order pursuant to § **37.2-809** and subsequently agreed to voluntary admission pursuant to § **37.2-805** *or (v) who, as a minor 14 years of age or older, was the subject of a temporary detention order pursuant to § **16.1-340.1** and subsequently agreed to voluntary admission pursuant to § **16.1-338*** to purchase, possess, or transport a firearm. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

B. Any person prohibited from purchasing, possessing or transporting firearms under this section may, at any time following his release from involuntary admission to a facility, his release from an order of mandatory outpatient treatment, or his release from voluntary admission pursuant to § **37.2-805** following the issuance of a temporary detention order, petition the general district court in the city or county in which he resides or, if the person is not a resident of the Commonwealth, the general district court of the city or county in which the most recent of the proceedings described in subsection A occurred to restore his right to purchase, possess or transport a firearm. A copy of the petition shall be mailed or delivered to the attorney for the Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party. If the court determines, after receiving and considering evidence concerning the circumstances regarding the disabilities referred to in subsection A and the person's criminal history, treatment record, and reputation as developed through character witness statements, testimony, or other character evidence, that the person will not likely act in a manner dangerous to public safety and that granting the relief would not be contrary to the public interest, the court shall grant the petition. Any person denied relief by the general district court may petition the circuit court for a de novo review of the denial. Upon a grant of relief in any court, the court shall enter a written order granting the petition, in which event the provisions of subsection A do not apply. The clerk of court shall certify and forward forthwith to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of any such order.

C. As used in this section, "treatment record" shall include copies of health records detailing the petitioner's psychiatric history, which shall include the records pertaining to the commitment or adjudication that is the subject of the request for relief pursuant to this section.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4**, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

3. That an emergency exists and this act is in force from its passage.

FIREARMS – SUMMARY ONLY

SB912 – §18.2-308.016. – Retired law-enforcement officers; carrying a concealed handgun; return to work. Clarifies that a retired law-enforcement officer shall surrender his proof of consultation to carry a concealed handgun when he returns to work as a law-enforcement officer. Current law does not specify that his return to work be as a law-enforcement officer.

MISCELLANEOUS – FULL TEXT

Sharing of forfeited assets; report. Provides that a state or local agency that receives a forfeited asset or an equitable share of the net proceeds of a forfeited asset from the Department of Criminal Justice Services (Department) or from a federal asset forfeiture proceeding shall inform the Department of (i) the offense on which the forfeiture is based, (ii) any criminal charge brought against the owner of the forfeited asset, and (iii) if a criminal charge was brought, the status of the criminal charge. The bill also provides that the Department shall include such information in the annual report that it provides to the Governor and the General Assembly concerning the sharing of forfeited assets.

CHAPTER 666

*An Act to amend and reenact § **19.2-386.14** of the Code of Virginia, relating to sharing of forfeited assets; report.*

[S 813]
Approved March 30, 2018

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-386.14** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-386.14**. Sharing of forfeited assets.

A. All cash, negotiable instruments, and proceeds from a sale conducted pursuant to § **19.2-386.7** or **19.2-386.12**, after deduction of expenses, fees, and costs as provided in § **19.2-386.12**, shall, as soon after entry of the forfeiture as is practicable, be distributed in a manner consistent with this chapter and Article VIII, Section 8 of the Constitution of Virginia.

A1. All cash, negotiable instruments and proceeds from a sale conducted pursuant to § **19.2-386.7** or **19.2-386.12**, after deduction of expenses, fees and costs as provided in § **19.2-386.12**, shall, as soon after entry of the forfeiture as is practicable, be paid over to the state treasury into a special fund of the Department of Criminal Justice Services for distribution in accordance with this section. The forfeited property and proceeds, less 10 percent, shall be made available to federal, state and local agencies to promote law enforcement in accordance with this section and regulations adopted by the Criminal Justice Services Board to implement the asset-sharing program.

The 10 percent retained by the Department shall be held in a nonreverting fund, known as the Asset Sharing Administrative Fund. Administrative costs incurred by the Department to manage and operate the asset-sharing program shall be paid from the Fund. Any amounts remaining in the Fund after payment of these costs shall be used to promote state or local law-enforcement activities. Distributions from the Fund for these activities shall be based upon need and shall be made from time to time in accordance with regulations promulgated by the Board.

B. Any federal, state or local agency or office that directly participated in the investigation or other law-enforcement activity which led, directly or indirectly, to the seizure and forfeiture shall be eligible for, and may petition the Department for, return of the forfeited asset or an equitable share of the net proceeds, based upon the degree of participation in the law-enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law-enforcement effort with respect to the violation of law on which the forfeiture is based. Upon finding that the petitioning agency is eligible for distribution and that all participating agencies agree on the equitable share of each, the Department shall distribute each share directly to the appropriate treasury of the participating agency.

If all eligible participating agencies cannot agree on the equitable shares of the net proceeds, the shares shall be determined by the Criminal Justice Services Board in accordance with regulations which shall specify the criteria to be used by the Board in assessing the degree of participation in the law-enforcement effort resulting in the forfeiture.

C. After the order of forfeiture is entered concerning any motor vehicle, boat, aircraft, or other tangible personal property, any seizing agency may (i) petition the Department for return of the property that is not subject to a grant or pending petition for remission or (ii) request the circuit court to order the property destroyed. Where all the participating agencies agree upon the equitable distribution of the tangible personal property, the Department shall return the property to those agencies upon finding that (a) the agency meets the criteria for distribution as set forth in subsection B and (b) the agency has a clear and reasonable law-enforcement need for the forfeited property.

If all eligible participating agencies cannot agree on the distribution of the property, distribution shall be determined by the Criminal Justice Services Board as in subsection B, taking into consideration the clear and reasonable law-enforcement needs for the property which the agencies may have. In order to equitably distribute tangible personal property, the Criminal Justice Services Board may require the agency receiving the property to reimburse the Department in cash for the difference between the fair market value of the forfeited property and the agency's equitable share as determined by the Criminal Justice Services Board.

If a seizing agency has received property for its use pursuant to this section, when the agency disposes of the property (1) by sale, the proceeds shall be distributed as set forth in this section; or (2) by destruction pursuant to a court order, the agency shall do so in a manner consistent with this section.

D. All forfeited property, including its proceeds or cash equivalent, received by a participating state or local agency pursuant to this section shall be used to promote law enforcement but shall not be used to supplant existing programs or funds. The Board shall promulgate regulations establishing an audit procedure to ensure compliance with this section.

E. On or after July 1, 2012, but before July 1, 2014, local seizing agencies may contribute cash funds and proceeds from forfeited property to the Virginia Public Safety Foundation to support the construction of the Commonwealth Public Safety Memorial. Any funds contributed by seizing agencies shall be contributed only after an internal analysis to determine that such contributions will not negatively impact law-enforcement training or operations.

F. The Department shall report annually on or before December 31 to the Governor and the General Assembly the amount of all cash, negotiable instruments, and proceeds from sales conducted pursuant to § **19.2-386.7** or **19.2-386.12** that were forfeited to the Commonwealth, including the amount of all forfeitures distributed to the Literary Fund. Such report shall also detail the amount distributed by the Department to each federal, state, or local agency or office pursuant to this section, and the amount each state or local agency or office received from federal asset forfeiture proceedings. *Any state or local agency that receives a forfeited asset or an equitable share of the net proceeds of a forfeited asset from the Department or from a federal asset forfeiture proceeding shall inform the Department, in a manner prescribed by the Department, of (i) the offense on which the forfeiture is based listed in the information filed pursuant to § **19.2-386.1**, (ii) any criminal charge brought against the owner of the forfeited asset, and (iii) if a criminal charge was brought against the owner of the forfeited asset, the status of the charge, including whether the charge is pending or resulted in a conviction.*

The Department shall include such information in the annual report. The Department shall ensure that such report is available to the public.

Industrial hemp research programs. Authorizes the Commissioner of Agriculture and Consumer Services to undertake research through the establishment of (i) a higher education industrial hemp research program, to be managed by institutions of higher education, and (ii) a Virginia industrial hemp research program. The bill classifies all participants in any research program as either growers or processors and replaces the current licensing requirement, which requires a police background check, with a registration requirement. This bill is identical to **SB 247.**

CHAPTER 689

An Act to amend and reenact §§ 3.2-4112 through 3.2-4119 and 54.1-3401, as it is currently effective and as it shall become effective, of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 3.2-4114.1 and 3.2-4114.2; and to repeal § 3.2-4120 of the Code of Virginia, relating to industrial hemp; research.

[H 532]

Approved March 30, 2018

Be it enacted by the General Assembly of Virginia:

1. That §§ **3.2-4112** through **3.2-4119** and **54.1-3401**, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered **3.2-4114.1** and **3.2-4114.2** as follows:

§ **3.2-4112**. Definitions.

As used in this chapter, *unless the context requires a different meaning*:

"Grow" means to plant, cultivate, or harvest a plant or crop.

"Grower" means any person ~~licensed~~ *registered* pursuant to *subsection A of* § **3.2-4115** to grow industrial hemp ~~as part of the industrial hemp research program~~.

"Hemp ~~products~~ *product*" means ~~all products~~ *a product* made from industrial hemp~~, including cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and seed for cultivation~~.

"Higher education industrial hemp research program" means a research program established pursuant to subsection A of § 3.2-4114.1.

"Industrial hemp" means all parts and varieties of the plant Cannabis sativa, ~~cultivated or possessed by a licensed grower,~~ whether growing or not, that contain a concentration of ~~THC~~ *tetrahydrocannabinol* that is no greater than that allowed by federal law. ~~Industrial hemp as defined and applied in this chapter is excluded from the definition of marijuana as found in § 54.1-3401.~~

~~"Industrial hemp research program" means the research program established pursuant to § 3.2-4120.~~

~~"Seed research" means research conducted to develop or re-create better varieties of industrial hemp, particularly for the purposes of seed production.~~

~~"Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives, of the genus Cannabis, or any synthetic substances, compounds, salts, or~~

~~derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.~~

"Process" means to convert industrial hemp into a marketable form.

*"Processor" means a person registered pursuant to subsection A of § **3.2-4115** to process industrial hemp.*

"Process site" means the location at which a processor processes or intends to process industrial hemp.

"Production field" means the land or area on which a grower is growing or intends to grow industrial hemp.

*"Virginia industrial hemp research program" means the research program established pursuant to subsection B of § **3.2-4114.1**.*

§ **3.2-4113**. Production of industrial hemp lawful.

A. It is lawful for a ~~person licensed pursuant to § 3.2-4115 or 3.2-4117 to cultivate, produce, or otherwise grow~~ *grower or his agent to grow or a processor or his agent to process* industrial hemp in the Commonwealth for any lawful purpose, including the manufacture of ~~industrial~~ *a* hemp ~~products~~ *product* or scientific, agricultural, or other research related to other lawful applications for industrial hemp. No ~~person licensed pursuant to § 3.2-4115 or 3.2-4117~~ *grower or his agent or processor or his agent* shall be prosecuted under § **18.2-247**, **18.2-248**, **18.2-248.01**, **18.2-248.1**, **18.2-250**, or **18.2-250.1** for the possession, ~~cultivation, or manufacture~~ *growing, or processing* of industrial hemp ~~plant material and seeds or industrial hemp products~~. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ **18.2-247** et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ **54.1-3400** et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation. If any part of this chapter conflicts with a provision of federal law relating to industrial hemp ~~that has been adopted in Virginia under this chapter~~, the federal provision shall control to the extent of the conflict.

C. No person shall be prosecuted under § **18.2-247**, **18.2-248**, **18.2-248.01**, **18.2-248.1**, **18.2-250**, or **18.2-250.1** for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a ~~licensed grower or a grower licensed pursuant to § 3.2-4117~~ *production field or process site*.

§ **3.2-4114**. Regulations.

The Board may adopt regulations pursuant to this chapter as necessary to ~~(i) license~~ *register* persons to grow *or process* industrial hemp or ~~(ii) administer the industrial hemp research program~~ *implement the provisions of this chapter*.

*§ **3.2-4114.1**. Higher education industrial hemp research programs; Virginia industrial hemp research program.*

A. To the extent that adequate funds are available, the Commissioner may undertake research of industrial hemp growth, processing, or marketing through the establishment and oversight of higher education industrial hemp research programs, which shall be directly managed by institutions of higher education in the Commonwealth. Any institution of higher education directly managing a higher education industrial hemp research program shall, by October 1 of each year, submit a report to the Commissioner regarding the institution's growing or processing activities for the previous year.

B. To the extent that adequate funds are available, the Commissioner may undertake research of industrial hemp growth, processing, or marketing through the establishment and management of the Virginia industrial hemp research program.

*C. Each participant in a research program established pursuant to this section shall be registered pursuant to subsection A of § **3.2-4115**prior to growing or processing any industrial hemp.*

D. The research activities undertaken pursuant to this section shall not:

1. Subject any industrial hemp research program established pursuant to this section to any criminal liability under the controlled substances laws of the Commonwealth. This exemption from criminal liability is a limited exemption that shall be strictly construed and that shall not apply to any activities of such an industrial hemp research program that are not authorized; or

2. Alter, amend, or repeal by implication any provision of this Code relating to controlled substances.

*§ **3.2-4114.2**. Authority of Commissioner; notice to law enforcement; report.*

A. The Commissioner may charge a nonrefundable fee not to exceed $50 for (i) any application for registration or renewal of registration allowed under this chapter and (ii) tetrahydrocannabinol testing allowed under this chapter. All fees collected by the Commissioner shall be deposited in the state treasury.

B. The Commissioner may establish a minimum size for a production field that shall qualify a person for a Virginia industrial hemp research program grower registration.

C. The Commissioner shall notify the Superintendent of State Police of the locations of all industrial hemp production fields and process sites.

D. The Commissioner shall forward a copy or appropriate electronic record of each registration issued by the Commissioner under this chapter to the chief law-enforcement officer of the county or city where industrial hemp will be grown or processed.

*E. The Commissioner shall be responsible for monitoring the industrial hemp grown or processed by a person registered pursuant to subsection A of § **3.2-4115** and shall provide for random testing of the industrial hemp, at the cost of the grower or processor, for compliance with tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § **3.2-4114**. In addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial hemp at any production field or process site during normal business hours without advance notice if he has reason to believe a violation of this chapter is occurring or has occurred.*

F. The Commissioner may require a grower or processor to destroy, at the cost of the grower or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows or the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

G. The Commissioner may advise the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when a grower grows or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

H. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration or appropriate federal agency that he determines to be necessary for the advancement of a higher education industrial hemp research program or the Virginia industrial hemp research program.

I. The Commissioner may cooperatively seek funds from public and private sources to implement a higher education industrial hemp research program or the Virginia industrial hemp research program.

J. By December 1 of each year, the Commissioner shall report on the status and progress of any higher education industrial hemp research program and the Virginia industrial hemp research program to the Governor and to the General Assembly and shall submit such report for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports.

§ **3.2-4115**. Issuance of registrations.

A. The Commissioner shall establish a *registration* program ~~of licensure~~ to allow a person to grow *or process* industrial hemp in the Commonwealth in a controlled fashion solely and exclusively as part of ~~the~~ *a higher education industrial hemp research program or the Virginia* industrial hemp research program. ~~This form of licensure shall only be allowed subject to a grant of necessary permissions, waivers, or other form of valid legal status by the U.S. Drug Enforcement Administration or other appropriate federal agency pursuant to applicable federal laws relating to industrial hemp.~~

B. Any person seeking to grow *or process* industrial hemp as part of ~~the~~ *a higher education industrial hemp research program or the Virginia* industrial hemp research program shall apply to the Commissioner for a ~~license~~ *registration* on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and mailing address of the applicant;

2. The legal description and geographic data sufficient for locating ~~the production fields to be used~~ *(i) the land on which the applicant intends* to grow industrial hemp ~~. A license~~ *or (ii) the site at which the applicant intends to process industrial hemp. A registration* shall authorize industrial hemp ~~propagation~~ *growth or processing* only ~~on the land areas~~ *at the location* specified in the ~~license~~ *registration*;

3. A signed statement indicating whether the applicant has ever been convicted of a felony. A person with a prior felony drug conviction within 10 years of applying for a ~~license~~ *registration* under this section shall not be eligible ~~for the license~~ *to be registered*;

4. Written consent allowing the sheriff's office, police department, or Department of State Police, if a ~~license~~ *registration* is ultimately issued to the applicant, to enter the premises on which the industrial hemp is grown *or processed* to conduct physical inspections of *the*industrial hemp ~~planted and grown by the applicant~~ and to ensure compliance with the requirements of this chapter. No more than two physical inspections shall be conducted under this subdivision per year, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction~~. All testing for THC levels shall be performed as provided in subsection K~~;

5. ~~Documentation~~ *If the applicant intends to participate in a higher education industrial hemp research program, documentation* of an agreement between ~~a public~~ *an* institution of higher education and the applicant that states that the applicant, if ~~licensed~~ *registered*pursuant to ~~this section~~ *subsection A*, will be a participant in the *higher education* industrial hemp research program managed by that~~public~~ institution of higher education;

6. *Written consent allowing the Commissioner or his designee to enter the premises on which the industrial hemp is grown or processed to conduct inspections and sampling of the industrial hemp to ensure compliance with the requirements of this chapter;*

7. If the applicant intends to participate in the Virginia industrial hemp research program, a statement of the approximate square footage or acreage of the location he intends to use as a production field or process site and a description of the research he plans to conduct to advance the industrial hemp industry;

8. Any other information required by the Commissioner; and

~~7.~~ *9.* The payment of a nonrefundable application fee, in an amount set by the Commissioner *not to exceed $50*.

C. ~~The Commissioner shall require a state and national fingerprint-based criminal history background check by the Department of State Police on any person applying for licensure. The Department of State Police may charge a fee, as established by the Department of State Police, to be paid by the applicant for the actual cost of processing the background check. A copy of the results of the background check shall be sent to the Commissioner.~~

~~D. All license applications shall be processed as follows:~~

~~1. Upon receipt of a license application, the Commissioner shall forward a copy of the application to the Department of State Police, which shall initiate its review thereof;~~

~~2. The Department of State Police shall, within 60 days, perform the required state and national criminal history background check of the applicant; approve the application, if it is determined that the requirements relating to prior criminal convictions have been met; and return all applications to the Commissioner together with its findings and a copy of the state and national criminal history background check; and~~

~~3. The Commissioner shall review all license applications returned from the Department of State Police. If the Commissioner determines that all requirements have been met and that a license should be granted to the applicant, taking into consideration any prior convictions of the applicant, the Commissioner shall approve the application for issuance of a license.~~

~~E. The Commissioner may approve licenses for only those selected growers whose demonstration plots will, in the discretion of the Commissioner, advance the goals of the industrial hemp research program to the furthest extent possible based on location, soil type, growing conditions, varieties of industrial hemp and their suitability for particular hemp products, and other relevant factors. The location and acreage of each demonstration plot to be grown by a license holder, as well as the total number of plots to be grown by a license holder, shall be determined at the discretion of the Commissioner.~~

~~F. An industrial hemp research program grower license shall not be subject to a minimum acreage.~~

~~G.~~ Each ~~license~~ *registration issued pursuant to this section* shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a ~~license~~ *registration* renewal fee*, in an amount set by the Commissioner not to exceed $50*.

~~H. The Commissioner shall establish the fee amounts required for license applications and license renewals allowed under this section. All application and license renewal fees collected by the Commissioner shall be deposited in the State Treasury.~~

~~I. A copy or appropriate electronic record of each license issued by the Commissioner under this section shall be forwarded immediately to the chief law-enforcement officer of each county or city where the industrial hemp is licensed to be planted, grown, and harvested.~~

~~J.~~ *D.* All records, data, and information filed in support of a ~~license~~ *registration* application *submitted pursuant to this section* shall be considered proprietary and excluded from the provisions of the Virginia Freedom of Information Act (§ **2.2-3700** et seq.).

~~K. The Commissioner shall be responsible for monitoring the industrial hemp grown by any license holder and shall provide for random testing of the industrial hemp for compliance with THC levels and for other appropriate purposes established pursuant to § **3.2-4114** at the cost of the license holder.~~

§ **3.2-4116**. Registration conditions.

A. A person shall obtain ~~an industrial hemp grower license~~ *a registration* pursuant to *subsection A of* § **3.2-4115** prior to ~~planting or~~ growing *or processing* any industrial hemp in the Commonwealth.

B. A person ~~granted an industrial hemp grower license~~ *issued a registration* pursuant to *subsection A of* § **3.2-4115** shall:

1. Maintain records that reflect compliance with this chapter and with all other state laws regulating the ~~planting and cultivation~~ *growing or processing* of industrial hemp;

2. Retain all industrial hemp ~~production~~ *growing or processing* records for at least three years;

3. Allow ~~industrial hemp crops, throughout sowing, growing, and harvesting,~~ *his production field or process site* to be inspected by and at the discretion of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the locality *in which the production field or process site exists*; ~~and~~

4. *Allow the Commissioner or his designee to monitor and test the grower's or processor's industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established pursuant to § **3.2-4114**, at the cost of the grower or processor;*

5. If the person is a participant in a higher education industrial hemp research program, maintain ~~Maintain~~ a current written agreement with ~~a public~~ *an* institution of higher education that states that the grower *or processor* is a participant in the *higher education* industrial hemp research program managed by that ~~public~~ institution of higher education*;*

6. If required by the Commissioner, destroy, at the cost of the grower or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows or the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law; and

7. If the person is a participant in the Virginia industrial hemp research program, by October 1 of each year, submit a report to the Commissioner regarding his growing or processing activities for the previous year.

§ **3.2-4117**. Additional industrial hemp registration.

~~A. The~~ *If applicable federal laws allow the growth or processing of industrial hemp for commercial purposes in the United States, the* Board may adopt regulations as necessary to ~~license~~ *register* persons to grow *or process* industrial hemp in the Commonwealth for any ~~lawful~~ purpose~~.~~

~~B. Notwithstanding the provisions of §§ 3.2-4115 and 3.2-4116~~, *and* the Commissioner ~~shall~~ *may* establish a *registration* program ~~of licensure and renewal~~, including the establishment of any fees not to exceed ~~$250~~ *$50*, to allow a person to grow *or process* industrial hemp in the Commonwealth for any ~~lawful~~ purpose. ~~Valid applications shall be granted licensure within 90 days of receipt of the application. The Commissioner shall accept license applications throughout the year. Licenses shall be valid for four years from the date of the issuance of the license.~~

§ **3.2-4118**. Forfeiture of industrial hemp grower or processor registration.

A. The Commissioner shall deny the application, or suspend or revoke the ~~license~~ *registration*, of any ~~industrial hemp grower if the grower~~ *person who* violates any provision of this chapter. The Commissioner shall provide reasonable notice of an informal fact-finding conference pursuant to § **2.2-4019** to any ~~industrial hemp grower~~ *person* in connection with the denial, suspension, or revocation of ~~the grower's license~~ *a registration*.

B. If a ~~license~~ *registration* is revoked as the result of an informal hearing, the decision may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with the Administrative Process Act (§ **2.2-4000** et seq.). The grower *or processor* may appeal a final order to the circuit court in accordance with the Administrative Process Act.

C. The Commissioner may revoke any ~~license~~ *registration* of any ~~person~~ *grower or processor* who has pled guilty to, or been convicted of, a felony.

§ **3.2-4119**. Eligibility to receive tobacco settlement funds.

Industrial hemp growers ~~licensed~~ *or processors registered* under this chapter may be eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund established pursuant to § **3.2-3106**.

§ **54.1-3401**. (Effective until July 1, 2020) Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ **54.1-2900** et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § **54.1-2901**, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § **54.1-2901** shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § **54.1-3443**.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is

pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ **54.1-2729.1** et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. Marijuana shall not include industrial hemp as defined in § **3.2-4112** that is possessed~~, cultivated, or manufactured~~ by a ~~grower licensed~~ *person registered* pursuant to*subsection A of* § **3.2-4115** *or his agent*.

"Medical equipment supplier" means any person, as defined in § **1-230**, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ **54.1-3437** et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § **54.1-3432**.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § **54.1-2957.01**, licensed physician assistant pursuant to § **54.1-2952.1**, pharmacist pursuant to § **54.1-3300**, TPA-certified optometrist pursuant to Article 5 (§ **54.1-3222** et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ **54.1-3303** and **54.1-3408** to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon

prescription or the label of which bears substantially the statement "Warning -- may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means distribution of prescription drugs to persons other than consumers or patients, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ **54.1-3300** et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ **54.1-3300** et seq.) unless the context requires a different meaning.

§ **54.1-3401**. (Effective July 1, 2020) Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a

corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ **54.1-2900** et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § **54.1-2901**, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § **54.1-2901** shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § **54.1-3443**.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ **54.1-2729.1** et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis. Marijuana shall not include industrial hemp as defined in § **3.2-4112** that is possessed~~, cultivated, or manufactured~~ by a ~~grower licensed~~ *person registered* pursuant to*subsection A of* § **3.2-4115** *or his agent*.

"Medical equipment supplier" means any person, as defined in § **1-230**, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ **54.1-3437** et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § **54.1-3432**.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § **54.1-2957.01**, licensed physician assistant pursuant to § **54.1-2952.1**, pharmacist pursuant to § **54.1-3300**, TPA-certified optometrist pursuant to Article 5 (§ **54.1-3222** et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ **54.1-3303** and **54.1-3408** to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning -- may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator

that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means distribution of prescription drugs to persons other than consumers or patients, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ **54.1-3300** et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ **54.1-3300** et seq.) unless the context requires a different meaning.

2. That § **3.2-4120** of the Code of Virginia is repealed.

Releasing agencies; notice of dangerous animal; penalty. Requires a custodian of a releasing agency, animal control officer, law-enforcement officer, or humane investigator, upon taking custody of any dog or cat from a person in the course of his official duties, to ask and document whether, if known, the dog or cat has bitten a person or other animal and the circumstances and date of such bite. The bill requires any representative of a releasing agency, animal control officer, law-enforcement officer, or humane investigator, upon release of a dog or cat for (i) adoption, (ii) return to a rightful owner, or (iii) transfer to another agency, to disclose, if known, that the dog or cat has bitten a person or other animal and the circumstances and date of such bite. Violation of such requirements is a Class 3 misdemeanor.

CHAPTER 678

*An Act to amend the Code of Virginia by adding a section numbered **3.2-6509.1**, relating to disclosure of animal bite history; penalty.*

[S 571]
Approved March 30, 2018

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **3.2-6509.1** as follows:

*§ **3.2-6509.1**. Disclosure of animal bite history; penalties.*

A. Any custodian of a releasing agency, animal control officer, law-enforcement officer, or humane investigator, upon taking custody of any dog or cat in the course of his official duties, shall ask and document whether, if known, the dog or cat has bitten a person or other animal and the circumstances and date of such bite. Any custodian of a releasing agency, animal control officer, law-enforcement officer, or humane investigator, upon release of a dog or cat for (i) adoption, (ii) return to a rightful owner, or (iii) transfer to another agency, shall disclose, if known, that the dog or cat has bitten a person or other animal and the circumstances and date of such bite.

B. Violation of this section is a Class 3 misdemeanor.

MISCELLANEOUS – SUMMARY ONLY

HB262 – §16.1-253.1 and 16.1-279.1 – Protective orders; family abuse; cellular telephone number or electronic device. Provides that as a condition to be imposed by the court on the respondent, a petitioner with a protective order issued in a case that alleges family abuse and, where appropriate, any other family or household member may be granted exclusive use and possession of a cellular telephone number or electronic device. The bill further provides that a respondent may be enjoined from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The bill provides that the court may enjoin the respondent from using a cellular telephone or electronic device to locate the petitioner.

HB909 – §2.2-3706, 2.2-3711, and 15.2-1713.1 – Virginia Freedom of Information Act; disclosure of law-enforcement and criminal records. Clarifies that the discretionary exemptions contained in the Freedom of Information Act pertaining to law-enforcement and criminal records may be used by any public body. Current law only permits such exemptions to be used by public bodies engaged in criminal law-enforcement activities. The bill also restricts the application of the discretionary exemption for those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature, the release of which would jeopardize the safety or privacy of any person, to only those portions of noncriminal incident or other noncriminal investigative reports or materials that are in the possession of public bodies (i) engaged in emergency medical services, (ii) engaged in fire protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing calls for service or other communications to an emergency 911 system or any other equivalent reporting system. This bill is a recommendation of the Freedom of Information Advisory Council.

HB988 – §19.2-389 – Criminal history record information; discovery. Provides that laws precluding dissemination of a person's criminal history record information do not preclude dissemination made pursuant to the rules of court for obtaining discovery or for review by the court.

HB1260 – §19.2-120 – Admission to bail; human trafficking. Adds the charges of (i) taking or detaining a person for the purposes of prostitution or unlawful sexual intercourse, (ii) receiving money from procuring or placing a person in a house of prostitution or forced labor, (iii) receiving money from the earnings of a prostitute, and (iv) commercial sex trafficking to the list of crimes for which there is a rebuttable presumption against admission to bail.

HB239 and SB 375 – §29.1-521 – Sunday hunting; exceptions; raccoons. Removes the prohibition on hunting or killing raccoons after 2:00 a.m. on Sunday. This bill is identical to **SB 375.**

HB853 – §28.2-226.1 and 28.2-302.5 – Saltwater recreational fishing license; member of Indian tribe exempt. Exempts from the requirements of obtaining a saltwater recreational fishing license and a commercial gear license for recreational purposes any person who is a member of an American Indian tribe that is recognized by the Commonwealth. The bill requires such person to carry an identification card or other documentation of the fact that he is a member of the tribe and provides that such documentation shall create a presumption of residence in Virginia that may be rebutted by proof of actual residence elsewhere.

HB135 and SB109 – §19.2-389.1 – Dissemination of juvenile record information; emergency medical services agency applicants. Provides that juvenile record information maintained in the Central Criminal Records Exchange may be disseminated (i) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency and (ii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance to conduct investigations of employment applicants for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency. This bill is identical to **SB 109.**

HB873 and SB121 – Child Car and Development Block Grant Act of 2014 – Child care providers; criminal history background check; sunset and contingency. Extends from July 1, 2018, to July 1, 2020, the expiration date and contingency on the requirement that the following individuals undergo fingerprint-based national criminal history background checks: (i) applicants for employment by, employees of, applicants to serve as volunteers with, and volunteers with any licensed family day system, child day center exempt from licensure pursuant to § 63.2-1716, registered family day home, or family day home approved by a family day system; (ii) applicants for licensure as a family day system, registration as a family day home, or approval as a family day home by a family day system, as well as agents of such applicants and any adult living in such family day home; and (iii) individuals who apply for or enter into a contract with the Department of Social Services under which a child day center, family day home, or child day program will provide child care services funded by the Child Care and Development Block Grant of 2014, as well as the applicant's current or prospective employees and volunteers, agents, and any adult living in the child day center or family day home. This bill is identical to **SB 121.**

HB564 – §29.1-530.1 – Hunting apparel; hunting from enclosed ground blind; solid blaze orange or solid blaze pink. Allows a hunter hunting from an enclosed ground blind during any firearms deer season, except during the special season for hunting deer with a muzzle-loading rifle only, to display attached to or immediately above the blind at least 100 square inches of solid blaze orange or solid blaze pink material visible from 360 degrees in lieu of wearing specified hunting apparel. The bill also requires that all specified blaze orange or blaze pink hunting apparel or material be solid in color and safety or fluorescent in hue. The bill contains technical amendments.

SB941 – Uncodified Act – Designating the Trooper Pilot Berke Bates Memorial Bridge. Designates the bridge on Route 612 (Airport Road) over Interstate 64 at mile marker 209 in the County of New Kent the "Trooper Pilot Berke Bates Memorial Bridge."

HB1395 – Uncodified Act – Trooper Michael Walter Memorial Highway. Designates the portion of Virginia Route 13 in Powhatan County between Virginia Route 1002 (Emmanuel Church Road) and Cumberland County the "Trooper Michael Walter Memorial Highway."

HB1607 – §3.2-6500, 3.2-6504, 18.2-403.1, and 18.2-403.2 – Abandonment of an animal; penalty. Decreases from five days to four days the minimum length of time for which failing to provide the elements of basic care constitutes abandonment of an animal. The bill increases from a Class 3 misdemeanor to a Class 1 misdemeanor the penalty for abandonment of an animal.

SB186 – §19.2-60.1 – Unmanned aircraft by a locality; search warrant; exception. Authorizes a state or local government department, agency, or instrumentality having jurisdiction over criminal law enforcement or regulatory violations to utilize an unmanned aircraft system without a search warrant when such system is utilized to support any locality for a purpose other than law enforcement.

HB995 – §29.1-516.1 – Tracking wounded bear, deer, or turkey. Allows a licensed hunter to use tracking dogs to find a wounded or dead bear, deer, or turkey. The bill authorizes the hunter to have a weapon in his possession and to use it to humanely kill the tracked animal, including after legal shooting hours. The bill prohibits using the weapon to hunt, wound, or kill any animal other than the animal the hunter is tracking, except in self-defense. Current law prohibits a hunter from having a weapon in his possession while tracking.

HB1599 – §9.1-101 and 9.1-400 – Department of Criminal Justice Services; definitions; law-enforcement officer. Adds (i) members of the investigations unit designated by the State Inspector General to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency and (ii) employees of the Department of Corrections or the Department of Juvenile Justice with internal investigations authority to the definition of law-enforcement officer. Such members and employees would not be eligible for Line of Duty Act benefits.

HB1393 and SB859 – §15.2-916, 15.2-1209, 18.2-285, 18.2-286, 29.1-306, 29.1-307, 29.1-591, 29.1-521, 29.1-521.2, 29.1-524, 29.1-525, and 29.1-549 – Arrowgun hunting; license. Authorizes the use of an arrowgun, a pneumatic-powered air gun, for hunting and allows certain disabled hunters to obtain an archery license for hunting with an arrowgun. This bill is identical to **SB 859.**

SB330 – §54.1-2519, 54.1-2521, 54.1-2522.1, as it is currently effective and as it shall become effective, 54.1-3442.6, and 54.1-3442.7 – CBD and THC-A oil. Adds cannabidiol oil (CBD oil) or THC-A oil to the list of covered substances the dispensing of which must be reported to the Prescription Monitoring Program. The bill requires a practitioner, prior to issuing a written certification for CBD oil or THC-A oil to a patient, to request information from the Director of the Department of Health Professions for the purpose of determining what other covered substances have been dispensed to the patient.

The bill requires the Board of Pharmacy to (i) promulgate regulations that include a process for registering CBD oil and THC-A oil products and (ii) require an applicant for a pharmaceutical processor permit to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for a criminal history record search. The bill requires a pharmacist or pharmacy technician, prior to the initial dispensing of each written certification, to (a) make and maintain for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; (b) view a current photo identification of the patient, parent, or legal guardian; and (c) verify current board registration of the practitioner and the corresponding patient, parent, or legal guardian. The bill requires that, prior to any subsequent dispensing of each written certification, the pharmacist, pharmacy technician, or delivery agent view the current written certification; a current photo identification of the patient, parent, or legal guardian; and the current board registration issued to the patient, parent, or legal guardian.

Finally, the bill requires a pharmaceutical processor to ensure that the percentage of tetrahydrocannabinol in any THC-A oil on site is within 10 percent of the level of tetrahydrocannabinol measured for labeling and to establish a stability testing schedule of THC-A oil.

SB673 – §16.1-340 and 37.2-808 – Emergency custody; time period. Repeals the June 30, 2018, sunset on provisions authorizing a community services board to continue to attempt to identify a facility other than a state hospital that is able and willing to provide temporary detention and appropriate care to an individual who is subject to an emergency custody order for up to four hours after the period of emergency custody has run.

HB1277 – §2.2-3800, 2.2-3801, and 2.2-3803 – Government Data Collection and Dissemination Practices Act; sharing and dissemination of data. Amends the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) to facilitate the sharing of data among agencies of the Commonwealth and between the Commonwealth and political subdivisions.

SB359 – §46.2-1702 – Driver education courses; instructor qualifications. Provides that the Commissioner of the Department of Motor Vehicles (Commissioner) may, in lieu of the requirements established by the Department of Education for driver education instructor qualification, accept 20 years' service as a traffic enforcement officer with patrol experience with any local police department by a law-enforcement officer who (i) retired or resigned while in good standing from such department, (ii) was certified through a criminal justice training academy, and (iii) has been certified to teach driver training by the Department of Criminal Justice Services. Current law only allows the Commissioner to accept 20 years' service with the Department of State Police by a person who retired or resigned while in good standing from such department in lieu of such requirements for driver education instructor qualification.

SB609 – §16.1-242 – Retention of jurisdiction over juvenile offenders. Clarifies that when a juvenile and domestic relations district court obtains jurisdiction in the case of any child, such jurisdiction includes the

authority to suspend, reduce, modify, or dismiss the disposition of any juvenile adjudication until such person reaches 21 years of age, except when the person is in the custody of the Department of Juvenile Justice or the court is divested of jurisdiction. The bill provides that it is declaratory of existing law.

SB716 – Uncodified Act – Department of State Police; recommend options to expedite the process of performing background checks; report. Requests that the Department of State Police (the Department) identify, analyze, and recommend options to expedite and improve the efficiency of its process for performing requested background checks. The bill requires the Department to report its findings and recommendations to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Rehabilitation and Social Services by November 1, 2018.

SB833 – §19.2-70.2 and 19.2-70.3 – Installation of a pen register or trap and trace device; emergency circumstances. Provides that when disclosure of real-time location data is not prohibited by federal law, an investigative or law-enforcement officer may obtain a pen register or trap and trace device installation without a court order in certain emergency circumstances. The bill provides that when a pen register or trap and trace device is installed without a court order under such circumstances, the investigative or law-enforcement officer shall file with the appropriate court, within three days of seeking such installation, a written statement setting forth the facts giving rise to the emergency and the reasons why the installation of the pen register or trap and trace device was believed to be important in addressing the emergency. The bill also provides that real-time location data may be obtained without a warrant from a provider of electronic communication service or remote computing service in order to locate a child who is reasonably believed to have been abducted or to be missing and endangered.

SB418 – §56-484.16 – Public safety answering points; deployment of text-to-9-1-1. Requires each public safety answering point (PSAP), by July 1, 2020, to be able to receive and process calls for emergency assistance sent via text message.

SB580 – §2.2-3800, 2.2-3801, and 2.2-3803 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 2.2 a section numbered 2.2-203.2:4 – Data collection and dissemination; governance. Amends the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) to facilitate the sharing of data among agencies of the Commonwealth and between the Commonwealth and political subdivisions. The bill creates the position of Chief Data Officer of the Commonwealth (CDO), housed in the office of the Secretary of Administration, to (i) develop guidelines regarding data usage, storage, and privacy and (ii) coordinate and oversee data sharing in the Commonwealth to promote the usage of data in improving the delivery of services. The bill also creates a temporary Data Sharing and Analytics Advisory Committee (Advisory Committee) to advise the CDO in the initial establishment of guidelines and best practices and to make recommendations to the Governor and General Assembly regarding a permanent data governance structure.

The bill directs the CDO and the Advisory Committee to focus their initial efforts on developing a project for the sharing, analysis, and dissemination at a state, regional, and local level of data related to substance abuse, with a focus on opioid addiction, abuse, and overdose.

This bill incorporates **SB 459, SB 719, SB 804,** and **SB 830.**

HB151 – §19.2-13 – Special conservators of the peace; authority; insurance. Replaces the powers that may be provided in the power of appointment for a special conservator of the peace (SCOP), which currently may include all powers, functions, duties, responsibilities, and authority of any other conservator of the peace, with only the duties for which the SCOP is qualified by training established by the Department of Criminal Justice Services. The bill requires the order of appointment to provide that such duties shall be exercised only in the geographical limitations specified by the court. The bill requires that the order delineate a limit beyond which the SCOP may not effectuate an arrest following a close pursuit. The bill prohibits all SCOPs from using the word

"police" and all SCOPs other than those employed by a state agency from using the seal of the Commonwealth on their equipment in the performance of their duties. The bill provides for certain exceptions from its provisions for SCOPs employed by the Shenandoah Valley Regional Airport Commission and the Richmond Metropolitan Transportation Authority, provided that such SCOPs meet all the requirements for law-enforcement officers, including the minimum compulsory training requirements.

SB995 – §33.2-1204 – Regulation of outdoor advertising in sight of public highways; exceptions. Provides that signs that are related to public safety, provide directional information, or provide public information may be situated or installed in highway rights-of-way. The bill provides that any signs other than those related to public safety, providing directional information, or providing public information may not be situated or installed in highway rights-of-way.

HB1163 – §27-6.2 – Fire protection; applicant pre-employment information with fire departments. Allows any fire department, pursuant to a local ordinance adopted in accordance with § 19.2-389, to require applicants for employment to submit to fingerprinting and to provide personal descriptive information to be forwarded through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. Under current law, the submission of such information is mandatory, not discretionary, and applies only to applicants for employment with the Arlington County Fire Department.

HB260 – §52-34.10, 52-34.11, and 52-34.12 – Virginia Critically Missing Adult Alert Program. Creates a program for local, regional, or statewide notification of a critically missing adult, defined as an adult whose whereabouts are unknown, who is believed to have been abducted, and whose disappearance poses a credible threat to his health and safety.